California Journal

THE MONTHLY REP[illegible] AND POLITICS

THE REAGAN YEARS

By Lou Cannon

November 1974

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A PERSONAL PERSPECTIVE...

By Ed Salzman

All the news that fits . . .

Try to imagine what would happen if a politician told a reporter from the Los Angeles *Times*, or any other major newspaper, that he could not take verbatim notes of a campaign speech and then print the text in the next day's edition. The reporter would tell the politican to fly a kite, and he would take a transcript of the address (although there is little chance that the speech would be printed in its entirety). If the politician told the reporter he would refuse to talk under those circumstances, then there would be no talk.

The fact is that no politician could get away with such an attempted intimidation of a newspaper. Yet, consider what has happened to the radio and television stations of California as far as their coverage of the six scheduled Brown-Flournoy debates is concerned. An agreement signed by both candidates specified what air use could be made of each debate. And this sentence was included in the contract: *No other television or radio use may be made of all or any part of the program by any person, including a candidate or the stations, except for normal news coverage.* This provision was strictly for the benefit of front-runner Jerry Brown, who had a strategic interest in preventing radio and television stations from broadcasting the debates live and on tape in their entirety. And the broadcasters knuckled under.

You can't blame Brown for trying. He had an enormous lead in the polls. The debates could only help Flournoy, and thus, from Brown's point of view, the less coverage the better. The agreement was designed by the Brown camp to limit coverage, although the contract did not apply in any legal way to radio and television stations. Just because two candidates sign a contract on news coverage does not mean that it applies to the stations, which are not parties to the agreement. Even Brown concedes that this is the case.

* * *

Before the first debate in Sacramento, there was some discussion between some of the TV stations and Brown's people over how much live and taped coverage would be allowed. The stations were seeking Brown's permission to do as they pleased. Channel 10 in Sacramento said it wanted to use an extra half-hour beyond normal news coverage. Brown said he could not agree to this because it would be a violation of the contract for him to give the go-ahead. But it was made clear that there was nothing the candidate could do to prevent the station from going ahead on its own hook. The station management decided not to run the extra half-hour.

The broadcasters should never have even brought up the subject; they should have gone ahead and done whatever they pleased. But they feared that if they did not go along with the pact, the debates might be curtailed and the broadcasters would get the blame.

The second debate, on the University of California's Irvine campus, produced an even more ludicrous situation. The debate was limited to educational issues, and the campus radio station wanted to broadcast it. Brown was asked to give his permission. He refused. But the station, acting on the advice of a Campus attorney, would not proceed without what amounted to a written waiver of the Brown-Flournoy agreement.

Perhaps most significantly, the statewide network of public non-commercial stations wanted to tape and play the entire series. Again, they engaged in discussions and got the same negative response from Brown. The stations declined to go ahead on their own hook because they feared that, should Brown become governor, he would hit them in the pocketbook.

Debates may be a dubious way of deciding elections since they do not necessarily measure which candidate will do the best job if elected. But if they are to be held, the public has a right to see them. More importantly, communications media have a responsibility to give these political events whatever coverage they merit. And any less coverage, if prompted by the actions of one or more candidates, seriously abridges one of our basic freedoms.

* * *

Broadcasters are quick to scream any time they do not get equal privileges with the written press at news conferences and during sessions of the Legislature. But where are they when there are some risks involved? Like getting blamed for causing cancellation of debates. Does anyone think for a moment that Jerry Brown would have refused to continue with the debates had educational television run them during prime time? That would have been the best thing that could have happened to Hugh Flournoy. Could Brown have refused to go on stage with Flournoy at Irvine if the campus radio station had told Brown to go to hell? Remember, Brown himself acknowledges that the stations are free to do as they please — so long as they do not require his permission before proceeding.

Brown had sound reasons for hanging tight to the agreement. It contained campaign-spending limitations that were potentially in his favor (if the Republicans could mount a last-minute spending spree), and it gave him a good excuse for not accepting additional debate invitations, especially on commercial stations with live audiences. There was no advantage for him to grant waivers, even though they would be meaningless. He could have renegotiated with Flournoy, but what did he have to gain?

What excuse do the broadcasters have for their lack of fortitude? Did any of them really think they were bound by the agreement? Did any of them consider the proposition that freedom of the airwaves is slightly more important than the political confrontations? The fact is that the radio and television stations were not anxious to devote time, money and effort to the campaign, and they took the easy way out. The broadcasters have a minimal interest in state politics, but can that disinterest extend to the protection of their most precious right? The Flournoy-Brown agreement would have had no effect on newspapers.

If nothing else, the 1974 gubernatorial campaign separated the journalists from the actors.

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THE REAGAN YEARS

An evaluation of the governor Californians won't soon forget

By Lou Cannon

In the summer of 1966, when Governor Edmund G. Brown wasn't depicting Ronald Reagan as a right-wing disciple of Barry Goldwater, he liked to deride him as a know-nothing actor who lacked any understanding of government. Brown compared Reagan to a "citizen pilot" who informed his passengers after they were aloft that it was his first flight "but don't worry — I've always had an active interest in aviation."

The scene shifts now to Michigan in the summer of 1974. Liberal Democrat Sander M. Levin, seeking the governorship, is locked in a tight battle with two-term incumbent Republican William G. Milliken. The federal government has just completed a study of the state's welfare policies at Milliken's request and has recommended the introduction of the procedures used by California Governor Reagan to reduce welfare caseloads. Levin takes the play away from Milliken by quickly promising that he will put these reforms into effect if he is elected. He says that Milliken should have acted earlier, as Reagan did. When reporters ask Levin if he likes having his own platform bear the Reagan trademark, he shakes his head and says, "I don't think that's a fair label." But he quickly adds: "Everything he has done isn't bad."

Conflicting legacy

What Levin also could have said, if he knew, was that Ronald Reagan had traveled a long way in his eight years as governor of California. As Reagan exits from the state political stage with yet another hesitant glance at the national arena, he can look behind him on a career that has frequently confounded both his supporters and his detractors, and on a governance that, whatever else can be said of it, has rarely been dull. He leaves this conflicting legacy:

Lou Cannon, a national political writer for the Washington Post and a former Sacramento correspondent for the San Jose Mercury News, *is the author of* Ronnie and Jesse: A Political Odyssey *and* The McCloskey Challenge, *and has written a Washington column for* California Journal *since its inception.*

- Coming into office with a pledge to "squeeze and cut and trim," Reagan found himself forced to sponsor the largest tax increase in California's history in a desperate effort to balance the budget. But he never abandoned his efforts to reduce government spending, and has held state employment at almost the same level as when he took office.

- Aided by a strange alliance with Democratic Assembly Speaker Bob Moretti, he pushed through a landmark welfare-reform program and another major program of property-tax relief. But neither Reagan nor the Legislature made any substantive reform of the tax structure, despite much rhetoric on both sides, and the voters rejected Reagan's attempt to add to the state Constitution a limit on the rate of state and local taxation.

- His campaigns against campus violence revealed a strong streak of anti-intellectualism — once he accused universities of "subsidizing intellectual curiosity" — and he has made many enemies and few friends in the state's educational establishment. But the outlays for higher education in his administration have increased by 100 per-cent, one of the best showings in the nation, while expenditures for other purposes were increasing only 50 percent.

- He proved an able and articulate advocate on the campaign trail and at his numerous press conferences. But Reagan's talent for wit and rhetoric ("Their signs said, make love not war, but they didn't look as if they could do either") was sometimes marred by insensitivity. ("It's just too bad we can't have an epidemic of botulism," he said in deploring those who accepted the food giveaways intended to help the kidnapped Patty Hearst.)

- Politically, he was a bust in 1968 as a late-starting candidate for president, and he has never really been taken seriously as a national candidate in the East and many sections of the Midwest. But Reagan had more impact on the domestic policies of the Nixon administration than any other governor, and his welfare policies are now widely copied by other states.

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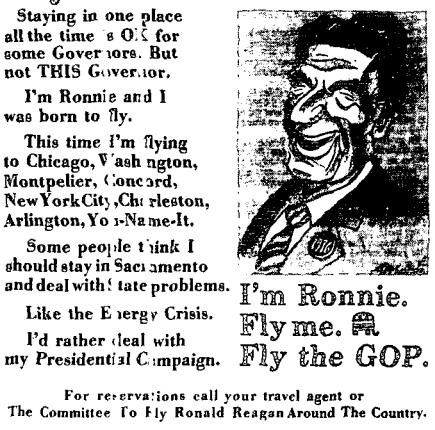
I have more flights East from Sacramento than any other candidate.
Staying in one place all the time is OK for some Governors. But not THIS Governor.
I'm Ronnie and I was born to fly.
This time I'm flying to Chicago, Washington, Montpelier, Concord, New York City, Charleston, Arlington, You-Name-It.
Some people think I should stay in Sacramento and deal with state problems.
Like the Energy Crisis.
I'd rather deal with my Presidential Campaign.
I'm Ronnie. Fly me. Fly the GOP.
For reservations call your travel agent or The Committee To Fly Ronald Reagan Around The Country.

'I hope the swelling goes down in a couple of years.'

The Bee's sting

Hardly a week has passed without cartoonist Dennis Renault of the McClatchy Newspapers in Sacramento, Fresno and Modesto jabbing the needle into Governor Reagan. Here are three samples.

'Cut! Squeeze! Trim!'

Only on one major point can an unequivocal assessment of Reagan be made: His record of personal integrity in office is unstained by scandal, and most of his appointments have reflected a similar high standard. Reagan's record in this regard stands in stark contrast to the corruption, both moral and pecuniary, of Richard Nixon and many of the men around him.

Wanted: one hero

Reagan came to government as an individual and an ideological oddity. His special place in history derives both from the force of his own personality and from a combination of historical circumstances.

At the time Reagan began thinking seriously of a partisan political role, Republicans were desperately in need of a hero. Most party activists and contributors were self-described conservatives who were basically hostile to the expanding role of government. They found insufficient reflection of their views in the policy and rhetoric of major Republican nominees, who more and more competed on the claim that they were superior managers of Democratic programs. The dynamics of the two-party system require that the faction in each party's coalition that provides most of the manpower also have an opportunity from time to time to choose a candidate. Republican conservatives, frustrated ever since Senator Robert Taft failed to win the GOP presidential nomination in 1952, were as dissatisfied by what they saw in their own party as Democratic liberals supporting George McGovern would be dissatisfied in 1972. In the early sixties Republican conservatives had no base outside Congress. No major state except Ohio was governed by a Republican conservative. When the conservatives broke through with Goldwater in 1964, the subsequent landslide defeat shattered one of their most precious myths — the belief in the existence of a "hidden conservative majority" waiting eagerly to support a true conservative for higher office.

Ronald Reagan and his famous Speech was almost the sole bright spot for the conservatives in that disastrous 1964 presidential campaign. At a time when consensus politics appeared to be the wave of the future, Reagan emerged as a heroic guide to people who believed that the nation had lost its way.

He was an unlikely hero in many ways. Trained as a communicator (his radio experience was at least as important as his acting), Reagan possessed an ability conspicuously lacking in other conservative politicians. By appealing to the essential patriotism and traditional values of his fellow citizens, Reagan widened rather than narrowed the appeal of his ideological message. Unlike many other conservatives, he started with an emotional base shared by those who were not of his ideological persuasion. His instincts, if not his policies, were those of a Democrat, a lower-middle-class Democrat from the Middle West who still thrilled to the memories of how Franklin Roosevelt had saved America from depression and led the nation in war. (Even today, these emotions remain in place behind the programmatic appeals for restricted government. Reagan said of the Works Program Administration, in a 1973 interview with *Human Events:* "When you look back in hindsight, WPA wasn't the boondoggle we said it was." The "we" in this statement is a vicarious pronoun. In the thirties, Reagan believed in WPA and supported it.) It was Reagan's own middle class, now prospering with him in California, who responded to him in 1966 when the old values seemed threatened by crime, campus demonstrations and soaring tax rates.

'Novice amateurs'

But something happened to Reagan that had never happened before to those who had been saying what he said. He was elected. And his election, while providing Reagan with an opportunity to demonstrate that he was more than a communicator, also seemed to provide a unique opportunity to those who believed in the inevitability of government growth. If Reagan were a disaster as governor (as his opposition was convinced that any "citizen politician" must be), it would complete the rout of the conservatives that had begun in 1964. And the potential for that disaster was certainly there, as some of Reagan's friends realized, for the new governor really

His instincts, if not his policies, were those of a Democrat . . .

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was as inexperienced as Pat Brown had made him out to be. "We weren't just amateurs; we were novice amateurs," said Franklyn Nofziger, Reagan's first communications director. And it was true.

Sympathy and scorn

In the first months of the new administration, Reagan's adversaries did for him what he was unable to do for himself. He made many blunders, but he also made the public realize that the Brown administration had saddled him with a huge deficit in its own desperate attempt to avoid a tax increase before the 1966 election. Reagan's handicap made him an object of sympathy as well as scorn. Despite his inept first finance director and his unrealizable goal of a 10 percent budget reduction (he finally had to accept a budget 10 percent higher than the last Brown budget), Reagan managed to convey to Californians that he was actually trying to do something about reducing the cost of government. His $1 billion tax increase was unpopular, but he succeeded in sharing the blame with the Democrats. The public, for the most part, also forgave his early blunderbuss attempts to cut back the budget of the University of California and the state colleges. The campus turmoil of the times had by then

made educators suspect among Reagan's constituents. Even Reagan's most ill-conceived budget reduction — his psychologically damaging attempt to apply his 10 percent across-the-board reduction to state mental hospitals — rebounded to his favor. When he gave up on the reductions and increased the budget, Reagan was persuaded to earmark additional funds for community health treatment. He thus encouraged the emphasis on community treatment and the phasing out of the state "warehouses" that was begun in the Brown administration with widespread support from the medical community.

Measuring up

Reagan had meant what he had said in the 1966 campaign, as incredulous as it sounded to his Democratic opponents. He really wanted to cut the budget, and thought it could be done. Rebuffed and embarrassed in 1967, he never gave up trying. The touchstone of the Reagan administration became and remains the state budget. As Tom Goff of the Los Angeles *Times* observed in a perceptive evaluation of the Reagan years: "The entire thrust of the Reagan administration has been to reduce or at least contain the role of government in the lives of Californians, as measured primarily by the taxes it collects."

On the surface, this measurement does little credit to Reagan. Total state and local taxes doubled in California during his administration. The state operations budget increased from $2.2 billion to $3.5 billion and the total state budget from $4.6 billion to $10.2 billion. As Goff pointed out, however, this doesn't tell the full story. The impact of inflation was far more severe in the Reagan years than at any other time. Many of the state's most costly programs had been mandated by federal action that even Reagan could not ignore. And the Legislature was in the hands of Democrats hostile to both Reagan and his purposes.

The better measure of Reagan's achievements in the battle of the budget is the nearly constant level of state employment. Under any other governor there is little doubt that the size of state government would have grown. Reagan also used his line-item veto power to keep the budget within reasonable bounds. The threat of his veto and his constant exhortations for economizing made constituents and legislators aware of the costs of government as they had never been aware before. In conversations, Reagan has sometimes accounted this his "greatest" achievement as governor. Without resorting to this superlative, it seems clear that Reagan has largely succeeded in his basic goal of holding down the cost of government.

Pro-business bias.

Reagan's appointments are as faithful a reflection of the man as his approach to budget cutting. Most have been distinguished by an integrity in office that matched the Governor's. Many also have shared his pro-business bias. His appointments to the state Public Utilities Commission, in particular, can justly be criticized for favoring utility companies at the expense of the consumer. But Reagan also was able to tap the resources of the business community as no governor had before him. Serving on innumerable task forces that were the butt of many jokes, these businessmen produced a number of valuable suggestions which Reagan, when he could, adopted in the state agencies.

Reagan's judicial appointments, the legacy that will last the longest beyond his administration, also were of high quality. For the most part they were partisan appointments, despite early assertions to the contrary, but they were qualified partisans who had been carefully screened by professional boards. Most California attorneys that this reporter has talked to give Reagan far higher marks than his predecessor on the overall quality of judicial appointments. One Democratic attorney who thinks that Reagan has been otherwise disastrous called his judicial appointments "truly first rate". Perhaps the most first rate of all is the man who has disappointed Reagan most, state Supreme Court Chief Justice Donald M. Wright. Reagan named Wright under the assumption

Some of his appointments to smog-control boards have left much to be desired.

that he was a judicial conservative. He now finds him much too liberal for his taste.

Environmental record

Environmentally, Reagan's record is mixed, but more positive than negative. He showed the courage to turn down federal funds and save the North Coast from an

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environmentally disastrous federal-state project that would have ruined the Eel River. He advocated and saw into law legislation that requires environmental impact statements on state public-works projects. He has signed tough smog and water-quality control measures, although some of his appointments to smog-control boards have left much to be desired. He has never grasped the necessity for broadscale state land-use planning, which runs counter to his distaste for increased government controls. But he has a remarkable record for a man who once said, "A tree's a tree. How many more do you need to look at?"

Reagan and Moretti

If there was a turning point in the Reagan administration, it probably occurred early in 1971 after his half-million vote re-election victory over Jesse Unruh. The substantive deficiency of Reagan's first term was his consistent inability to work with the Legislature, particularly with the Unruh-led Assembly. Unfortunately for California, this deficiency had prolonged in a new political framework the series of stalemates that had dominated the last Democratic administration under the cloud of rivalry and personal jealousy between Unruh

Bob Moretti

and Brown. In the eight years encompassed by Brown's second term and Reagan's first, state government was long on promises and short on delivery. Reagan compounded the difficulty by persistent denigration of the Legislature. It was an attitude reflecting both his inexperience and his personal distaste for legislative processes. Although he could be a man among men at legislative drinking-and-dining sessions, he simply did not care for the in-fighting. Once, in 1969, he told a reporter, "I'd really rather be home with Nancy."

Reagan's refusal to recognize legislative relationships as an art that he must master was at least bearable as long as he stuck to budget-cutting. But when he tried to get support for welfare reform or for his tax bills he found that the accumulated resentments against both his ideology and his style of governing produced a solid barrier in the Democratic-controlled Legislature. He was saved from a second four-year cycle of frustration by a Democrat who recognized that the Legislature's record was in many ways as sorry as Reagan's.

Bob Moretti, a disciple of Unruh who had broken with him, realized that it was state government as a whole that was on trial. "It just became evident to me that if anything was going to be done there was going to have to be an accommodation," Moretti said. A few months after he became speaker, he took the initiative for face-to-face meetings with Reagan, with staff members excluded. This proposal was regarded uneasily both by some of Moretti's lieutenants and by some of Reagan's aides. The meetings took place anyway, largely because the individual pride of Moretti and of Reagan did not permit either to shrink from the challenge. In one sense it can be said that neither the Governor nor the Speaker were as politically skilled — some would even say as intelligent — as their predecessors in the Brown-Unruh era had been. But they understood far more. Walter Lippman once compared Charles de Gaulle to the far-sighted man

It was the suggestions that he had been a second-rate actor that got under his skin . . .

who stumbled over the furniture up close but could see across the room. Reagan is like that, and so, in many ways, is Moretti. Reagan had no use for Moretti's generosity with other people's money, and Moretti thought that the Governor lacked compassion. But they wound up their negotiations with grudging respect for the other's integrity and toughness. Both men kept their word. Out of their meetings came welfare reform, improved educational financing and property-tax relief.

One of the reasons that Moretti had insisted on meeting Reagan without staff was a belief that he knew more about the specific programs that were being negotiated than the Governor did. He was right, as far as he went, but Reagan understood the underlying political realities. In his first term he had deplored the tendency of right-wing state Senator John G. Schmitz, a Reagan critic, to "go over the cliff flags flying." Reagan did not go over any cliffs. He was a man of principle, a rhetorician who recognized, in William Buckley's phrase, that rhetoric precedes "thoughtful action". He believes, and with some justice, that it was his own rhetoric that had created the pre-conditions that caused Moretti to seek him out.

Passionate beliefs

Ronald Wilson Reagan was 55 years old when he became governor, an age at which most people are becoming more rigid in their ways rather than more flexible. Reagan was no exception. He knew whom he was as a person, and he was not dependent upon either politics or the governorship to provide him with a sense of personal worth. His work habits had been largely shaped by Hollywood, where a few weeks of intense movie-making would be followed by long periods of inactivity. It was a comfortable life-style for Reagan, who enjoyed his acting profession and was good at it. (In the early days of his governorship it was the suggestions that he had been a second-rate actor that got under his skin, not the criticisms of his ideology or of his ignorance.) He had a flair for the dramatic, and a craving for center stage.

Reagan lacked Nixon's burning ambition to become president.

Reagan had always believed passionately in whatever it was he believed in, and he had a communicator's talent and desire for converting others to his way of thinking. But Reagan's life was not bound up in his political

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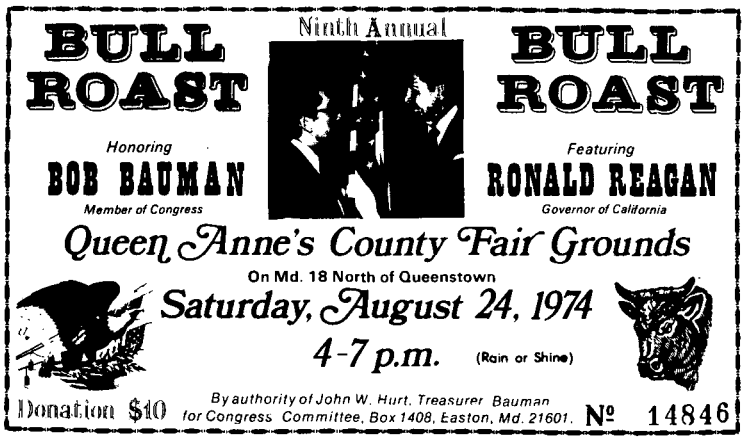

speeches. He was a 9-to-5 executive who went home at the end of the day to a plain dinner and his pretty wife and who turned in early when he could. His friends were people of his own age who had made it at the same time he did. Many were not political at all beyond a shared mystical faith in the efficacy of the free-enterprise system that had benefited them. They swapped stories and watched television and were sports fans. Some of them loved to hear "Ron" talk about his plans for cheaper government, but neither he nor they had any tolerance for the legislative gamesmanship that made up Sacramento life, let alone for the time-consuming work of translating an enunciated policy into law.

Delegating responsibility

All this made Reagan a delegator, who turned over the day-to-day business of governing to his subordinates and left the office early. Reagan trusted his aides (far too much in the case of an alleged homosexual who occupied a key position in his early administration and proved to be a divisive influence). But in the long run, Reagan's proclivity for delegating responsibility proved well suited to his capabilities and to his personality. He had the advantage of a practically photographic memory and the disadvantage of a short attention span. Aides learned to organize their presentations so that Reagan could absorb quickly what they had to say, knowing that he would rarely forget it. Sometimes this meant that he made a decision based on inadequate information, but it also meant that decisions were made.

Taken as a whole, the quality of these decisions was high because Reagan had the talent, so undefinable and so important in public life, to attract good people to work for him. He was particularly benefited by a series of able appointments secretaries and by the performance of back-to-back executive secretaries, William P. Clark and Edwin Meese III, who understood how Reagan's mind worked. Legislators and even some cabinet officials came to complain that it was Meese, not Reagan, who was actually the governor. But Reagan was the boss. For the most part, Meese did what the Governor wanted him to do.

National reputation

Beyond the borders of California, Reagan was regarded in 1967 as a glib and potentially dangerous demagogue, a prospective "man on a white horse" who would rally a presidential constituency angered by the excesses and the seeming ineffectualities of the Great Society. Except to a narrow coterie of conservatives, he also was perceived as someone of little substance, the "citizen pilot" of Pat Brown's fantasy whose inexperience would at best cause his flight to end in a crash landing.

In practice, almost the reverse of the 1967 expectations proved true. Reagan never got off the ground as a presidential candidate, and his emotional rhetoric proved a pale match for the genuine demagoguery of George Wallace and Spiro Agnew. But his influence from within turned around the welfare policies of the early Nixon administration and, in effect, substituted Reagan's program of caseload reduction for the federal solution of the Family Assistance Plan. Reagan's national legacy, like his governorship, is a conflicting one that measures up neither to the fears of his foes nor to the expectations of his entourage.

As a presidential candidate, Reagan was not even remotely a match for the man who now sits in uneasy isolation in San Clemente. For one thing, Reagan lacked Richard Nixon's burning ambition to become president, believing, as he sometimes said, that "lightning would strike" if he were destined to be the nominee. There are few authentic political lightning victims in the history of the Republic, and Reagan was not one of them. Except for Cliff White, Reagan had no one around him who was even able to get a kite up into the political skies, as the Reaganites promptly proceeded to prove at the 1968 national convention. (It is a measure of the naïveté of the men around Reagan that some of them still insist, in defiance of all contrary evidence, that Reagan would have been nominated if the unit rule had been broken in two Southern delegations. The more conventional analysis is that Nixon, abetted by Strom Thurmond, John Tower and Harry Dent, had a lock on the Southern delegates.)

Source of sin

Reagan in office, however, was far more secure about his political options than Nixon was in the White House. The California Governor had long believed that the "puzzle palaces on the Potomac", as he used to call the centers of bureaucracy in Washington, were the source of the original sin that afflicted the big spenders in Sacramento. His belief was reinforced during the first two years of the Nixon administration by his experiences with the U.S. Department of Health, Education and Welfare, where his political rival and former lieutenant governor, Bob Finch, held sway and where John G. Veneman, whom Reagan had considered a disloyal Republican under Unruh's thumb in the Assembly, was the undersecretary. Reagan was incensed by HEW decisions that he thought made it impossible for the state to impose common-sense standards of welfare eligibility. He realized, through the rhetoric on both sides, that some of HEW's best bureaucrats had a vested interest in determining the unworkability of the present system in an effort to push forward the congressionally stalled Family Assistance Plan. Reagan responded brilliantly. While joining the public fight against the FAP, Reagan also shifted course and began to defend the welfare system he had been attacking for most of the decade. It was ba-

The only hope . . . was for Nixon to last out his second term.

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sically a good system, he said, and there was nothing wrong with it that couldn't be cured by removing the federal restrictions from the states' administration of it.

Although he didn't know it immediately, Reagan was aided by HEW's own bureaucratic insistence on the sanctity of its strict interpretation of federal regulations. A number of other states, some with Democratic governors, were beginning to complain that HEW wouldn't allow meaningful verification procedures to determine welfare eligibility. When the Michigan Legislature in 1969 passed a law empowering the state Department of Social Services to withhold aid pending a hearing, the provision was struck down by HEW.

White House worries

Reagan had a secret weapon in his long and persistent battle to stop the Family Assistance Plan and free the states to pursue their own welfare policies. He had a direct line to President Nixon, which he used sparingly but effectively as a political weapon of last resort. The White House was worried about Reagan, both because of the usual political reasons and because Nixon exaggerated the importance of his home state. Both H.R. Haldeman and John Erlichman, then the powers in the White House, were looking to the 1972 election, and they wanted a neutralized Reagan in their corner. They were willing to give ground on poverty programs, on Medi-Cal, on welfare regulations. Eventually, they gave even more.

When Caspar W. Weinberger, the former state finance director whom Reagan had once called "my Disraeli", took over at HEW, Reagan and Meese saw their chance. They exported not only their welfare program but its director, Robert B. Carleson, who was ecstatic over the plummeting caseload in California triggered by the Reagan welfare reforms. Other state governments, pressured by their constituents to reduce taxes, wanted to get on the bandwagon. Even better, the reforms had something for everyone since liberals could stress the increase in grants for the poorest aid-to-dependent-children recipients (none of whom had received increases during Governor Brown's eight years) while conservatives could emphasize the reduction in caseload. New York Governor Nelson A. Rockefeller, drifting slowly to the right in a belated effort to make himself acceptable to his party, adopted many of California's guidelines. Other states followed suit. Carleson responded by instituting a system — once unthinkable in HEW -- that will penalize states that exceed a predetermined rate in welfare overpayments.

Loudest defenders

Watergate inadvertently increased Reagan's influence with the second Nixon administration. The Governor's gratitude over the new-found federal tolerance for his welfare experiments combined with his basic loyalty to make him one of the most outspoken defenders of the embattled President. Reagan believed in Nixon's innocence, but his position also was good politics. After Agnew's fall, the boosters of Reagan and of Rockefeller realized that the only hope for their aging candidates was for Nixon to last out his second term. The men of Watergate, Reagan had said, were "not criminals at heart." Rockefeller, without ever being quite as quotable, went even further in his broad-scale defense of the sinking President. The governors of the nation's two largest states, both of them with a reputation for clean government, became in the final tarnished months of the Nixon administration the President's loudest defenders.

Ronald Reagan on the news media:

I don't think I've converted the liberal members in the press who are ideologically opposed to me – to my beliefs. But I hope they realize that for one thing I made myself accessible. We tried to level with the press on everything that we were trying to do. I know that guys with the capitol press corps who come in to these press conferences have a job to do, and I've tried to make that job as easy as I could. I didn't throw any roadblocks in the way. And I think that we've developed an understanding on that basis with many members of the press . . . .

Even though ideologically they may still totally disagree with what I'm trying to do, I think that for the most part they recognize they can get answers, and they acted in that way.

— From a September 1974 interview with Lou Cannon

Knowing when

In the waning hours of the 1970 re-election campaign Reagan was eating steak and lobster at a Los Angeles restaurant when a dinner companion asked him what he thought about Agnew. "The trouble with Spiro is that he doesn't know when to stop," Reagan replied, thoughtfully. "A showman should always know when it's time to leave the stage."

Now it is Reagan's turn to leave, and he is having trouble with it (although hardly the kind of trouble that Agnew had). Despite the pressure of some of his backers, Reagan decided wisely, perhaps with Pat Brown in mind, against seeking a third term on the strength of his first two victories. But after making the decision not to run again, Reagan seems unwilling to retire to his ranch. He seeks a political role, if not a governmental one, and he is plainly uncertain how to find it.

A well-placed group of conservatives on the Governor's staff lacks Reagan's doubts. They want Reagan to emerge as the Republican alternative on the right of Gerald Ford, and they have encouraged the departing Governor to snipe away at the still inexperienced President. Reagan also has been encouraged in this stance by a cadre of congressional conservatives, but he may have reached the wrong conclusion about the reasons for their enthusiasm. What these conservatives want, as two or three say behind Reagan's back, is a front man who will keep Ford mindful of the conservative constituency. They are pleased that Reagan is willing to provide this pressure, but only because they themselves are reluctant to stand up and be counted against their President. In a word, as some of Reagan's original supporters see it, Reagan is allowing himself to be used in an effort to discredit Ford before he has had a chance to show what he can do. The day before Ford's anti-inflation message Reagan sent out a telegram based on press reports of what the speech would contain in which he opposed any tax increases and called for an end to

Correction

The campaign-reporting article in the October *Journal* indicated that Richard O'Neill contributed $18,400 to Jesse Unruh's candidacy for treasurer in the June primary. The contribution was made for Unruh's unsuccessful campaign for mayor of Los Angeles and was filed with O'Neill's report of 1973 donations.

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Our printer apologizes . . .

Some copies of the October issue were printed with a few pages blank. We do not know how many or which subscribers may have received them. If you received a flawed copy, you can receive a replacement by writing to the *Journal* at 1617 10th St., Sacramento 95814.

We apologize for the inconvenience. And so does the printer.

"bloated government" by a five percent across-the-board cut in federal spending.

It was highly reminiscent of the ten percent cut in state spending that Reagan advocated and then abandoned in 1967. At best it also reflected a woeful ignorance of federal budget procedures. The telegram disgusted some usually loyal Reagan supporters, one of whom complained: "Now is the time for loyalty to a Republican President, not when the President is an unindicted co-conspirator."

Popularity remains

Whatever happens to Reagan after he leaves office, it is not likely that Californians will soon forget his governorship. They may even mourn its passing, since most politicians are better thought of once they are gone and Reagan has remained relatively popular despite the vicissitudes of eight tumultuous years. Pollster Mervin Field, an authority on the subject, found in August that three Californians thought Reagan had done a good job for every two who thought he had done a poor one. That is almost precisely the opposite of the Brown profile in 1965 when Reagan first began to explore his gubernatorial prospects.

Reagan will leave office pretty much as he came, a controversial figure and an electric speaker with an undisputed star quality about him. He believes, as he used to say, that there "are simple solutions, just not easy ones." But a judgment on Reagan's governorship is neither simple nor easy. He proved that a conservative can govern a major state, and well, but he has left unanswered the question of whether conservatives can reverse the long-term trend of American government. Nor can idelogy alone define the Reagan years. Many of Reagan's triumphs were personal ones, achieved as much despite his ideology as because of it. Many of his defeats also were largely personal. Some of his programs cannot yet be judged as either victories or defeats.

One thing is certain: Reagan put his own stamp on government and he seemed a larger-than-life figure in his own time. Whether he also will have an impact on those who come after him remains to be determined.

It was said . . .

It shocked me. Suddenly, I was on stage, and I realized there were a thousand people in the audience. They weren't talking among themselves anymore; they were paying attention to me. It was a powerful and spooky feeling. No one had ever paid attention before.

. . . by Joseph W. Knowland, who succeeded his father, William F., as publisher of the Oakland Tribune, *explaining the sensation of experiencing editorial influence.*

There could be a few doctors who would look at a patient and say, "There's no reason why I shouldn't give this patient every test I can." It's like when you go buy a car and they load it up with everything in the business.

. . . by Legislative Analyst A. Alan Post, suggesting one reason why Medi-Cal costs have risen sharply while the caseload has been holding relatively stable.

We must not permit ourselves to fall into the trap of appearing to promote changing the rules of the game by lowering the standards. Lowering the standards for entrance either into the job market or the university is not advancement.

. . . by State Superintendent of Public Instruction Wilson Riles, speaking to the annual meeting of the National Urban League in San Francisco.

The climate isn't right.

. . . by Senator Randolph Collier, explaining why he had killed his own bill to increase pension benefits for himself and several other lawmakers who have served at least 21 years.

For a crummy state Assembly seat you have to spend anywhere from $60,000 to $80,000. And for a state Senate seat you could spend $100,000.

. . . by state Senator Anthony C. Beilenson, in urging some form of public financing of elections to resolve a "major problem of legislators representing special interests."

Those businessmen have been traumatized by Watergate, absolutely traumatized. Those guys don't want to have their names on a list or in a newspaper.

. . . by William Banowsky, Republican national committeeman, as reported by Associated Press.

What's the matter with us? We run for cover because a few newspaper guys have nothing to write about. Vote aye and teach them a lesson.

. . . by Senator Ralph Dills, urging his colleagues to support a bill providing legislators with a pay raise.

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THE PENSION FIGHT

Some substance, mostly spectacle

BY BRUCE KEPPEL

The lawmakers' four days of public chastisement and almost ritual absolution may have saved the taxpayers a little money, but the importance more likely resides in the spectacle of the command performance itself.

First, the savings. The legislators repealed a part of their pension plan that would have allowed certain of their colleagues — those elected before 1970 who have served for at least four years and leave office in this year of reapportioned districts — to collect their pension benefits immediately, regardless of age. Theoretically, 62 assemblymen and senators could qualify under that definition, which produced estimates that the early payments could cost nearly $6 million. Actually, no more than a half a dozen or so lawmakers will likely leave office this year. Consequently, Legislative Analyst A. Alan Post pointed out, the real savings derived from repealing the early-payment feature would not exceed $900,000 over the 24 years that it would take the youngest of those eligible to reach the normal retirement age of 60. And even that sum might not be realized since a court challenge is likely and the cost of litigation would further erode the savings.

The lawmakers also removed a retroactive cost-of-living feature from the pensions earned by constitutional officers, which substantially reduced their entitlements. This action, too, is subject to court challenge (and perhaps on stronger grounds than the bonus repealer, since the California Constitution permits lawmakers to reduce their own compensation but not that of others). Only the pensions of Governor Reagan and Treasurer Ivy Baker Priest are immediately affected. According to a Department of Finance estimate, Reagan's pension was cut from $34,760 to $19,640, the difference being subtraction of $15,120 reflecting inflation's effect on 1954 prices; Priest's pension will be $14,780 instead of $24,780.

Reagan accepted his cut "as a small enough price to pay" for repealing the legislators' early-payment benefit.

Now, the spectacle. The Second Extraordinary Session of the 1973-74 Legislature, as the four fall days are officially designated (the first extraordinary session having taken place during a few hours last December to remedy a Reagan administration tactical error affecting the federal government's takeover of welfare payments), had a number of interesting aspects:

- Partisan politicking was never more clearly apparent at a time when the public is thought to be turned off of such displays.
- The unseasonal summoning of the lawmakers back to Sacramento came about through a classic display of interaction between news media and a public primed by scandal elsewhere to lash out at politicians anywhere.
- The outcome, however temporarily triumphal, remains in doubt.

Birth of the bonus

The early-payment bonus was born of the United States Supreme Court's "one-man, one-vote" doctrine. That landmark decision forced a special reapportionment of the California Senate, which had been organized on the basis of geography rather than population. The result was to leave 17 senators — most of them over 50 years old — with no place from which to seek re-election. To ease their ouster and, not incidentally, to grease passage of the reapportionment plan in the upper house, the lawmakers decided to let the departed begin collecting their legislative pensions on leaving office. The normal qualifications — reaching age 60 or completing 20 years' service — were waived. The early-payment provision was passed without a dissenting vote and, eventually, signed by Democratic Governor Edmund G. Brown.

In 1969, Democratic Senator James Mills attempted to retire this early-payment mechanism. His bill limited its applicability to legislators elected before 1970 — that is, to those voting. Then, in 1971, Republican Assemblyman Frank Lanterman authored an extension of the early-pension bonus, which Republican Governor Reagan signed. This was the specific section repealed. Lanterman argued at the time that the bonus was still justified because the public interest would be served by encouraging incumbents whose districts were modified unfavorably to make a run for re-election anyway and, thus, avoid a possible exodus of experienced lawmakers.

No secret

The measure's enactment was no secret. Its operation

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and potential cost were detailed in *California Journal* [see "Early retirement becomes attractive choice for legislators" in the January 1971 issue], but aside from a few echoes in the press there was no public reaction or follow-up. However, someone in the Associated Press' Sacramento bureau filed away the *Journal* account against a day when the pension issue would again acquire news value. That proved to be the 1974, when elections would take place for the first time in court-reapportioned districts. AP added the pension angle to its planned coverage for the primary election.

The job of reporting this story fell to a young reporter named Evans Witt, who had joined the Capitol bureau in April after having been with AP for about a year. The first splash came June 20th with Witt's revelation that former Assembly Speaker Bob Moretti, who had just lost a bid for the Democratic gubernatorial nomination, could

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Time To Retire.

temper his disappointment with the knowledge that his retirement from the Legislature would be accompanied by an $8,200-plus annual pension payable immediately on leaving office, as it happens, age 38.

The Los Angeles *Times* played the story at the top of its front page, and other papers gave it prominent display. Perhaps because the public's sense of outrage had been ignited by Watergate, the story stirred a strong reaction (some of it unfairly directed at Moretti because of his relative youth and recent prominence). The Sacramento *Union's* long-running series titled "The Golden Dome" may not have recounted much that was not public knowledge about legislative and governmental perquisites, but it did help fan the public's outrage over the long summer and into the legislative recess — an effect heightened by the editorial tone of the series. In any case, the 30-odd articles that flowed from K.W. Lee's typewriter since August 1st reached a receptive readership, and they are directing attention at the whole question of office-holders' "pay and perks".

Political attraction

It was at this point that the political attractiveness of attempting to repeal the early-payment bonus suggested itself. Though partisanship was not an announced motive (when is it?), the political fact is that Republican Assemblyman Robert McLennan found himself, because of reapportionment, thrown into a tough campaign with veteran Democratic Assemblyman Joe Gonsalves. McLennan introduced a repealer in August. While the measure went nowhere, McLennan did get some publicity — enough at least to impress Republican leaders that the freshman may have grasped a potentially potent issue that could spread to Democrats some of the embarrassment that had so far been a GOP monopoly.

Even so, as September progressed it seemed that the matter might still blow over. Then newspapers began editorializing on the subject, and the public began to give voice to its outrage. Lawmakers touching base with constituents after months in Sacramento seemed to get the message: The folks back home were aroused, and mightily, at precisely the time when their votes would have to be sought. Reagan, who a few days before had dismissed the calling of a special session as a futile gesture, reported that his mail was now running heavily against the bonus.

Legislators summoned

The morning of September 23rd, the legislative leadership met to discuss reconvening the Legislature. This would allow consideration of a repealer but also provide an opportunity to try to override some of the Governor's 174 vetoes that month (though the old five-day veto session had been dropped from the new two-year calendar as a useless and wasteful exercise). As this meeting was taking place, a proclamation arrived from Reagan calling a brief special session for the 25th limited to reconsideration of the bonus. Though the hand of partisanship lay heavily over both approaches, the popular will would be done either way.

So the lawmakers were summoned. They met briefly at noon the 25th as Reagan had ordered and, after a handful of repealer bills were introduced, recessed until Monday the 28th, when the two houses reconvened to take up the Governor's vetoes and the repealer proposals.

While the Assembly managed to muster the required two-thirds majority to override Reagan's veto of nine measures, the Senate was unable to match any of them. A proposal to remove the compensation-setting responsibilities from the lawmakers and place it instead in the hands of an independent commission similarly went nowhere, though it will likely be considered by the 1975 Legislature. Also killed was a move to take away the pension of Ed Reinecke, who had just resigned as lieutenant governor after being sentenced to a suspended 18-month prison term for committing perjury during testimony before a congressional committee.

Repealer enacted

In short, all that emerged from the four-day extraordinary session was enactment of the repealer, Assembly Bill 7. In its final form, the bill contained the names of 28 assemblymen, including McLennan, and two senators. (The bipartisan authorship suggested that the lawmakers had finally read the popular will, though Governor Reagan was to push partisanship a bit farther by signing the bill surrounded by Republicans invited to McLennan's district for the occasion.)

The measure, which took effect as soon as Reagan signed it:

- Repeals the provision for the early-payment bonus.
- Preserves survivor benefits for the legislators who would have qualified for early pensions.
- Revoked a provision linking the pension of the con-

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stitutional officers to the probably higher salaries of the future holders of those offices.

- And removed a cost-of-living booster based upon price levels of 20 years ago.

The last two items relate to the offices of governor, lieutenant governor, secretary of state, attorney general, controller, treasurer, superintendent of public instruction, and the Board of Equalization.

The results

So much for the spectacle and how it came to pass. What did it accomplish?

In exchange for paying about $13,000 in per diem for the four days of the extraordinary session, the public won repeal of the bonus, however modest the actual savings. (The Department of Finance figures that, in the six remaining months of fiscal year 1974-75 and all of FY 1975-76, the state will save about $100,000 in early payments to the legislators and $42,735 in cost-of-living supplements to Reagan and Priest.)

That leaves the question of litigation: Will the repealer be challenged and, if so, will it hold up?

Challenges could come from two sources — the aggrieved lawmakers and the affected constitutional officers or their friends. The only negative vote as AB 7 cleared the two houses came from Senator Lawrence Walsh, who is leaving office November 30th after having failed in a bid for the Democratic nomination for lieutenant governor. (Assemblyman John J. Miller voted no on one occasion in committee and abstained from the final vote; he considers the repeal illegal, he said, and the early pensions justified, given the risks one runs in political life.) Walsh argues that his decision to run for that office was made partly in the belief that, should he lose the nomination, leaving him out of politics, he would still have a pension to fall back on. Was it legal for the lawmakers to change the grounds of that assumption retroactively, in which case Walsh could be judged to have been unfairly damaged? Others have suggested that it is an infringement of the federal Constitution's provisions relating to the right of contract to change the terms of employment after the fact.

On the other hand, the voters did give the lawmakers the right to set their own compensation — and to limit it if they so choose. That is not true, however, of the compensation of constitutional officers.

The final question may be whether the public's sense of outrage over legislative benefits has been sufficiently placated. If not, where will it break out next?

How California law still discriminates against women

By HARRIET KATZ BERMAN

Despite significant accomplishments in recent legislative sessions, California still has many statutes that discriminate on the basis of sex. The common theme: differential treatment of men and women in terms of economic roles.

The differentiation starts early on. Under provisions in California's Labor Code, "Hortense" Alger cannot have a paper route or work in the street occupation of "bootblacking" until she is 18; Horatio, on the other hand, can start peddling papers and shining shoes at the age of 10 (Labor Code §1298). Boys can be telegram messengers at 16; girls at 18 (Labor Code §1297).

Because of recent rulings of the federal Equal Employment Opportunities Commission, the state labor commissioner is not now enforcing child-labor laws that make a distinction on the basis of sex. The state Legislature will have to decide what new age minimums, applicable to boys and girls alike, to set for these jobs. In other words, the question of at what age child labor should be permitted or banned in a particular line of work should not be answered one way for boys and another for girls. If exploitation is to be prevented, it should be prevented equally for both; if an opportunity for minors to earn money is to be authorized by law, it should be provided equally.

Economic assumption

These age differentials for boys and girls embody an economic assumption that earning money is more impor-

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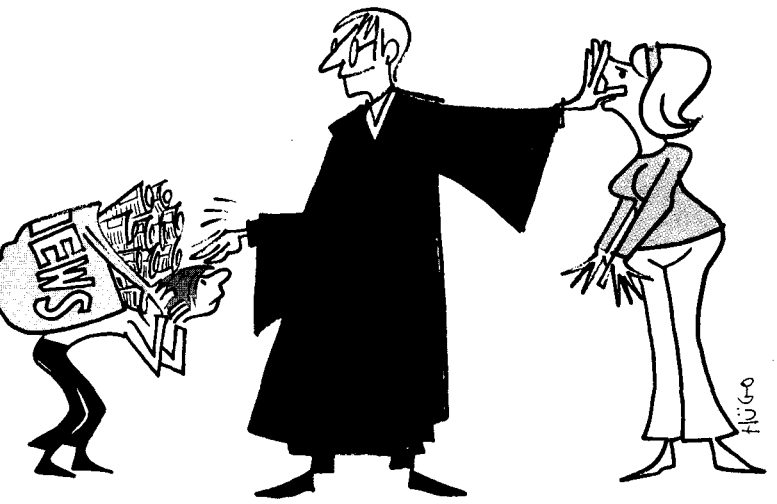
tant for males than for females. At the other end of the life-cycle, California law also treats a woman's earnings less seriously than a man's. Under Workmen's Compensation sections of the Labor Code (§3501, 3502, 4702, 4707) and Public Employees Retirement System provisions of the Government Code (§20041, 21250), death benefits automatically go to a surviving widow; if the deceased worker is female, her husband is only eligible for benefits if he was dependent on her for support. These laws do not only discount the importance of a woman's earnings; they also discriminate against men. Retirement no longer differs on the basis of sex for state employees belonging to PERS, the state retirement system. But state law still authorizes some sex differentials concerning age, contributions, and pensions under county retirement systems (Government Code §31620), and the table of percentages prescribed by statute requires female employees to contribute at a higher rate than men (Government Code §31622).

Maternity leaves

The assumption that earning money is more important for men than for women operates most vividly — and most ironically — in statutes concerning employment and pregnancy, an area in which the law is now starting to change. California law authorizes school districts (Education Code §13456, 13593, 13651.3) and state agencies (Government Code §19384) to establish maternity leaves of absence for female employees. Some districts made such leaves of several months' duration



mandatory for pregnant employees, but mandatory maternity leaves have recently been struck down by the United States Supreme Court. Before that decision, many women who wanted or needed to continue working before and after giving birth were not allowed to do so; the economic role was assumed to be secondary to motherhood. And, with no uniform state law, public agencies have often made maternity leaves available in an arbitrary manner. For example, an expectant mother who needed to take some time off (beyond the 10 days' sick leave authorized by the State Personnel Board) might not have a job to come back to. The Legislature has approved and Governor Reagan signed a measure (AB 3905 — Fong) entitling permanent state employees to a 60-day maternity leave without pay.

Meanwhile, many pregnant women not forced off the payroll by mandatory leave policies have been forced to stop working out of medical necessity. At the same time, they have been ineligible for disability aid under California's Unemployment Insurance Code (§2626), which was only partially amended last year to extend coverage to abnormal and involuntary complications of pregnancy (§2626.2). Legislative efforts this year to have pregnancy treated, for all job-related purposes, the same as any other temporary disability, suffered a major setback when the United States Supreme Court upheld California's existing law.

It takes two . . .

Whether through mandatory maternity leaves or through exclusion from disability coverage, the message of the law has been clear, and clearly absurd: Pregnant women don't need money.

As the term connotes, "maternity leave" is reserved exclusively for women. But "maternity leave" covers not only pregnancy and child-birth, but child-rearing as well. The last stage, child-rearing, can be done by either parent or shared by both, but current law discriminates against men by lumping child-bearing leave with child-rearing leave and making it available only to female employees. (Moreover, some current techniques of child-birth involve the father in the delivery process; state law doesn't recognize this fact, however.)

Most women who work do so for the same reason most men do: They need the money, whether to support themselves, to support their dependents, or to augment their spouse's income. Benefit systems are set up to help people economically through times of change or crisis, such as encountering a disability. When benefit systems treat a woman's earnings less seriously than a man's, they defeat the purpose they were presumably designed to serve.

The exclusion of pregnancy from disability coverage is not the only example. Under another section of the Unemployment Insurance Code (§1264), a person who leaves a job to accompany a spouse to a new location too far away to commute to his or her job is ineligible for unemployment insurance. This law is neutral on its face. As a practical matter, however, it operates most often against women — particularly against women whose husbands are relocated or who take new jobs elsewhere. Such a move is often expensive; yet, the law suggests that a wife can readily afford to give up her income to move with her family, as if that income were not important to the family in the first place, let alone at a time of particular need.

Job discrimination

California law prohibits job discrimination on the basis of sex. Under Article XX, Section 18 of the state Constitution, "a person may not be disqualified because of sex from entering or pursuing a lawful business, vocation or profession." The Fair Employment Practices Act and the Civil Service Act ban sex discrimination in private and public employment. But state laws still assume that some jobs are for men only.

The Fish and Game Code (§726) specifies that five members of the Marine Research Committee "shall be men experienced in, and actively engaged in, the canning, reduction, or commercial taking" of certain fish. Numerous Government Code provisions concerning police and fire personnel refer solely to males. And the

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Stately concern for the fragile female

Ranging from the trivial to the tragic, many California statutes make distinctions on the basis of sex. Among them:

No license, other than an on-sale beer license, shall be issued . . . for any premises situated more than one mile outside the limits of an incorporated city and within two miles of any camp or establishment of men, numbering 25 or more, engaged upon . . . construction . . . of a public or quasi-public character.
— Business & Professions Code §23792

If any person slays or permanently disables another person in a duel in this state, the slayer must provide for the maintenance of the widow or wife of the person slain or permanently disabled . . . .
— Civil Code §3347

My full name is _____ (including Christian or given name, and middle name or initial and, in case of women, the prefix Miss or Mrs.).
— Elections Code §321, Form of Affidavit of Registration

No artists' manager shall send . . . any woman . . . as an employee to any house of ill fame, to any house or place of amusement for immoral purpose, to places resorted to for the purposes of prostitution, or to gambling houses . . . .
— Labor Code §1700.33

All persons are capable of committing crimes except those belonging to the following classes: . . . (7) Married women (except for felonies) acting under the threats, command, or coercion of their husbands.
— Penal Code §26

If . . . a female against whom a judgment of death is rendered is pregnant, . . . the warden must suspend the execution of the judgment . . . . When the Governor receives from the warden a certificate that the defendant is no longer pregnant, he must issue to the warden his warrant appointing a day for the execution of the judgment.
— Penal Code §3705 and 3706

The State Forester, or his duly authorized agent, may summon any able-bodied male to assist in suppressing any forest fire . . . .
— Public Resources Code §4153

The vocational training at Ventura School for Girls [a Youth Authority institution] shall be in such subjects as domestic science, dressmaking, horticulture, agriculture, and such business instruction as is practicable for women.
— Welfare & Institutions Code §1123

State Personnel Board and agency heads are expressly authorized by statute (Government Code §19702) to decide that some jobs should be reserved for one sex.

Another assessment in state law of the economic role of women occurs in the legal status of paid domestic workers, most of whom are women. Domestic workers only recently became entitled to the guarantee provided by the state's minimum-wage law. Domestic workers only come under Workmen's Compensation if they work 52 or more hours a week for one employer (Labor Code §3358.5), and they are not deemed employees for purposes of qualifying for unemployment insurance.

Wives and work

And for the *unpaid* domestic worker — the housewife — the law makes virtually no provision at all. The role of a wife and mother — provider of a multitude of services — is not defined as an economically productive role. Home-making receives none of the benefits, such as disability coverage or retirement plans, available to people in other careers. For many women, home-making is a career for only part of their lives. Current law does little to facilitate the transition for women going from unpaid domestic work to something else. One way in which the law is helping is by establishing various child-care programs; more are needed. But the law also imposes obstacles; under an Education Code statute, for example, 30 years was the maximum age of eligibility for a state scholarship or loan for higher education — until the Legislature this year passed AB 3514 (Berman), which the Governor signed, removing this age ceiling.

The economic role of the housewife and mother is defined as a dependent rather than productive one. In Civil Code sections on "man's duty of support" and "woman's duty of support", sex discrimination is entrenched with the placement of a semi-colon: *Every man shall support his wife, and his child; and his parent when in need* (§242). *Every woman shall support her child; and her husband and her parent when in need* (§243).

Married women are expected to be the second-string players in supporting children: *If the support and education which the father of a legitimate child is able to give are inadequate, the mother must assist him to the extent of her ability* (Civil Code §196). (The expectations are different for unmarried parents: *The father as well as the mother of an illegitimate child must give him support and education suitable for his circumstances.)*

Though these statutes remain on the books, community-property sections of the Civil Code were amended last year so that domestic finances are no longer "under the management and control of the husband." Clean-up measures adopted this year — SB 2103 (Dymally) and SB 1601 (Song) — sexually neutralize many other statutes relating to community property and child support.

Child support

Mothers have also been in the fall-back position regarding criminal penalties for failing to meet child-support obligations. Penal Code section 270 makes a father who willfully fails to support his child guilty of a misdemeanor, a distinction that was dropped through additional legislation adopted this session — AB 1293 (Keene) — which applies the criminal penalties for non-support to mothers as well as to fathers. (It is ironic that equality for women in this case means equal culpability for criminal penalties; it would be better to have eliminated the sex discrimination in these provisions by re-examining the notion of putting people in jail for failure to make child-support payments, since they certainly can't contribute to child support while behind bars.)

Statutes assuming different economic roles for men and women are by no means the only way in which California law discriminates on the basis of sex [see box]. But discrimination in this area bears upon the economic realities of people's daily lives. The lack of seriousness about women's economic role embodied in present law only aggravates the economic problems faced by many women.

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The two-year session: Was it all that bad?

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'I'll have this thing working in a minute . . . .'

By Ed Salzman

It takes no great insight to review the frantic windup of the 1974 legislative session and conclude, as much of the press has done, that California's first two-year congressional-style Legislature was a failure. As Governor Reagan pointed out, the climax of the session was nothing less than a "spectacle" — with major issues left unresolved, bills passing without proper examination, "ghost voting" prevalent in the Assembly, and hundreds of bills being sent to the Governor's desk in a circus atmosphere. Where, the Governor had a right to ask, is the new sense of professionalism and efficiency that was supposed to have resulted from the enactment of Proposition 4 in 1972? But is the logjam the sole test of the success or failure of the system?

Hardly anyone, except those legislators who promoted the idea, has come forward to defend the two-year session. The San Francisco *Chronicle* editorialized: "What a joke it turned out to be." Somehow, the legislative-pension issue turned almost everyone in California against lawmakers in general, and no one was in much of a mood to find anything right about the Legislature. Larry Margolis, executive director of the Citizens Conference on State Legislatures in Kansas City and former top aide to Jesse Unruh when he was Assembly Speaker, doubted that his organization would still rate the California Legislature as best in the nation, as it did in 1969. However, no other state legislature has been able to eliminate the end-of-session logjam either.

Even legislative leaders who support the two-year session agree that the frantic windup was a disgrace and that new rules must be adopted to force earlier action on the main flow of bills. But aside from this major problem, what else went wrong with the two-year session?

Before analyzing the balance sheet for the session, an even more important factor should be considered — the leadership of the Senate and Assembly. The system under which a legislative body operates is not nearly as important as the individuals who control that system. Good leaders (an Unruh, for example) can run an efficient legislature under a poor system, and vice versa.

During 1974, there was a serious leadership problem in both houses. For the first five months, Assembly Speaker Bob Moretti was running for governor, and Leo McCarthy and Willie Brown were engaged in a behind-the-scenes struggle to succeed him that took precedence over the flow of legislation. Eventually, McCarthy took over near the end of the session, perhaps the worst possible time for a change of command.

In the Senate, President pro Tempore James Mills came under persistent attack for failing to exert strong leadership, and fellow Democrat George Zenovich has been trying to unseat him.

The basic criticisms of the 1973-74 session:

- More than one thousand bills were processed in the final week, compared to 600 during the rest of the year.
- There is now more confusion than ever because there are more pressure points during the year that can result in improper handling of legislation.
- Bad bills now stay alive twice as long, resulting in "over-legislation".

There is no defense for the end-of-session logjam, and the supporters of the two-year system offer none. All they say is that they never promised the voters that the congressional-style session would do away with the natural inclination of human beings to procrastinate. But Assembly Speaker McCarthy offers these figures that tend to refute the claims of the critics:

- The Legislature was in session only 242 days during 1973 and 1974, compared to 422 days during the previous two years. Lawmakers drew $1.4 million in expense checks, compared to $1.9 million in 1971 and 1972.
- During the first two-year session, 1,671 fewer bills were introduced and 800 fewer went to the Governor.
- In January 1974, the Legislature acted upon 402 bills, compared to only a handful previously, since the two-year calendar eliminated January as a "dead month". Now only the December immediately following election of a new Legislature — such as this year — will be especially slow, being devoted to organizing the two houses.
- Some 885 bills were carried over from 1973 to 1974, eliminating the cost of processing duplicate proposals.
- More interim hearings were scheduled, and the Legislature can now engage in detailed research leading to the development of major future legislation.

Moretti thinks the Legislature would become more efficient if a joint committee were established to study the budget each year, thus streamlining the appropriations process. He also would like to see lawmakers ignore floor debate on measures for large stretches of time and concentrate on committee work. He has suggested that the schedule be arranged so that there would be four weeks of committee work followed by a solid week of floor action. During his speakership, Mondays and Thursdays were devoted primarily to floor work, and Tuesdays and Wednesdays were left for committee consideration of bills. The Senate has refused to follow this line of reasoning, insisting on daily floor sessions that maximize public view.

On balance, there is nothing wrong with the system, as such. Through internal rule-making and strong leadership, the two-year session could be made a near-total success by breaking the pre-adjournment logjam. The responsibility for making the system work falls upon McCarthy and Mills, or their successors. There would be little to gain by switching to any other arrangement without strong and effective leadership.

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Major bills vetoed and signed into law

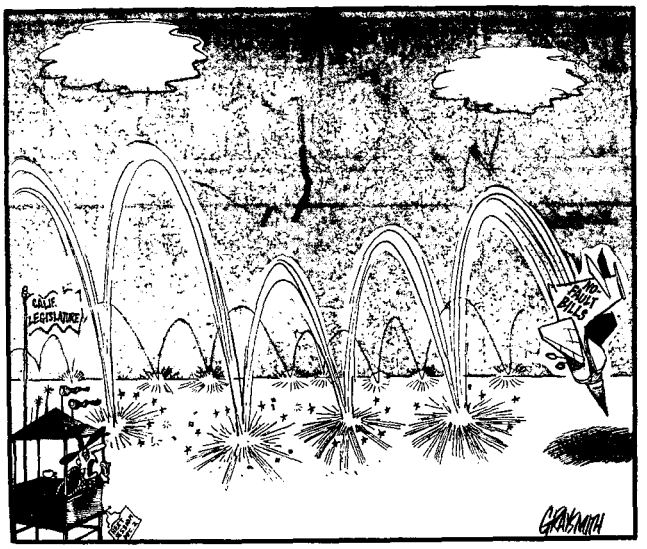
The 1974 Legislature went on a housing binge, but the party ended at the office of Governor Ronald Reagan, who vetoed almost every major piece of legislation in the housing field. Reagan, who indicated that he was so upset with the final crush of legislation that he was tempted to veto every bill sent him after adjournment, also killed bills covering a variety of subjects. Again, public-employee benefits were a prime victim, but that was no surprise. In all, Reagan vetoed 198 bills during the year, 172 of them enacted during the session's last week. By comparison, he vetoed 172 last year, with one of them overridden by the Legislature. (Reagan's use of the veto was far exceeded in 1925 by Republican Governor Friend W. Richardson. Undoubtedly the most fiscally conservative chief executive in California history, Richardson vetoed 519 of the 999 bills sent to his desk.)

After years of relative inactivity in the field of housing, the Legislature passed a series of major measures designed primarily to promote development of more units for low- and moderate-income families. On three different occasions, the Governor squashed proposals to establish a state agency with bond authority to provide funds for this type of accommodation. He also vetoed measures aimed at helping with the rehabilitation of delapidated housing, giving senior citizens more property-tax relief and providing some money from the state general fund for the Cal-Vet farm-and-home program.

Successes and failures

In terms of accomplishment, the first two-year session was generally considered the best ever for the environmental movement. The Sierra Club and the Planning and Conservation League were so successful that they will be hard put to improve upon the record in 1975. Perhaps the most significant bill in this field was Assemblyman Charles Warren's energy plan, which will establish a new commission to determine sites for power plants and require plans to be drafted for the conservation of energy.

The two biggest failures were in the fields of no-fault automobile insurance and agricultural labor. Lawmakers came within a whisker of passing Assemblyman Jack



Graysmith — San Francisco *Chronicle*

'He's taking off . . . Wait . . . He's off . . . Hold it . . . He's up . . . Nope . . . Hang in there'

Fenton's no-fault plan, which was supported by most insurance firms and guaranted at least a 15 percent reduction in premiums. But the change of speakership in the Assembly — from Fenton-supporter Bob Moretti to Leo McCarthy who backed a rival bill by John Francis Foran — doomed both bills. The Foran proposal, backed by the trial lawyers, also came reasonably close to enactment. Although there was considerable publicity about the prospects of a farm-labor law, there really never was much chance of anyone's steering a bill through this politically land-mined field. A bill sponsored by Cesar Chavez and the AFL-CIO cleared the Assembly, but it was doomed in the Senate where the Teamsters Union and growers had massed opposition forces.

Of lesser importance, Senator Randolph Collier's plan to construct a new state Capitol or at least a massive new legislative office building was slowed to a crawl by McCarthy, who objected to the Senator's support for his opponent in the speakership contest, Willie Brown.

The following summary of the 1974 legislative session is divided into two sections: 1 — Bills vetoed by the governor, with his stated reasons for doing so. 2 — Major bills signed into law.

Key vetoes

CRIMINAL JUSTICE

AB 725 (Sieroty) — Eliminates the mandatory 90-day minimum jail term for anyone found under the influence of marijuana.

Present law . . . permits persons deemed by the court to be good risks to be given probation or diverted to a treatment program prior to prosecution. Under this judicial flexibility, judges can make the level of sentence fit both the crime and the offender.

AB 726 (Sieroty) — Permits sealing criminal records for those violating marijuana laws.

Approval of this bill would not be beneficial to society or to the individual involved and could act to the detriment of both.

AB 2758 (Sieroty) — Makes simple

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possession of two ounces or less of marijuana in public (or four ounces or less in private) a misdemeanor.

I cannot approve any measure which weakens the social sanctions against the illicit use of marijuana or which could be interpreted as a move by the state to condone its use. Nor can I approve a measure which could permit pushers to avoid the felony charge by carrying two ounces or less, an amount amply sufficient to make well over 100 marijuana cigarettes.

AB 3821 (Sieroty) — Prohibits public employers from requiring the disclosure of an arrest record that has been sealed.

Prior arrests and detentions, even where the record has been sealed, should be disclosed if a person is seeking employment as a peace officer.

AB 4200 (Lanterman) —Establishes an out-patient procedure for treating criminal defendants committed to state mental hospitals.

The fatal defect in this bill is that it fails to provide notice to district attorneys so that they can appear in court to contest the release of prospective outpatients.

SB 1086 (Nejedly) — Requires the Adult Authority to meet during a prisoner's eighth month of incarceration to consider a release date.

SB 1086 would require many unproductive parole consideration hearings . . . . It is estimated the cost to the taxpayers for these non-productive services would be more than $2,350,000.

EDUCATION

AB 2586 (Vasconcellos) — Provides faculty and student representation on the Board of Governors of the California Community Colleges and the Trustees of the California State University and Colleges.

I am vetoing this bill at the request of the trustees . . . . and the board. They contend that constituencies subject to the board's governance should not sit on the board and that the relationship . . . . becomes even more critical with the advent of collective bargaining.

AB 4190 (Vasconcellos) — Provides $3 million for expansion of child-care programs on higher-education campuses.

I can find no justification to extend state financial support to those students ineligible for public social services.

SB 1592 (Dills) — Provides an estimated $70 million in additional state aid to public schools, including an inflation adjustment.

The effect of inflation on our schools is no greater than on all other segments of society . . . . This bill is further flawed by provisions that allow the "high wealth" districts to receive new state apportionments that appear unneeded and unwarranted.

SB 2176 (Moscone) — Appropriates $46 million for bilingual education programs.

Future funding for bilingual programs should be met through existing categorical funding sources.

ENVIRONMENT

AB 2884 (Ingalls) — Creates a full-time Air Resources Board whose members would be drawn from persons skilled in medicine, automotive engineering, chemistry, meteorology and environmental preservation.

I am concerned about the small number of highly specialized points of view which would be applied to such a problem of broad magnitude. I do not believe such a full-time board . . . is necessary or desirable.

AB 3523 (Lockyer) — Prohibits take-offs and landings on runways at Metropolitan Oakland International Airport if the flight pattern extends over the East Oakland hills.

This bill . . . would be unconstitutional because federal law has already preempted this area of aviation.

AB 3553 (Wakefield) — Gives residents in the vicinity of the proposed Chino Hills Airport veto power over the facility.

The bill appears inconsistent with the transportation-planning processes embodied by existing laws.

AB 3569 (Z'berg) — Abolishes the Department of Conservation, replacing it with a Department of Forestry and reassigning some divisions to the Resources Agency. [See "Who should manage state forest land?", *CJ*, August 1974].

It is unfeasible to assign six units from the Department of Conservation directly to the Resources Agency and give the agency secretary the responsibilities of a director.

SB 1198 (Mills) — Creates the California Environmental Improvement Fund and transfers $40 million in federal revenue-sharing receipts to the fund.

It is obvious that establishing this authority to study these types of problems represents a substantial duplication of effort . . . . Cumbersome and overlapping administrative authority would be developed.

SB 1556 (Biddle) — Creates a full-time Air Resources Board and establishes a single regional air-pollution-control district for the six-county South Coast Air Basin.

I do not believe the current board is deficient in the performance of its duties . . . . I do not believe the state should mandate this new district upon local government . . . . Present law already provides for this action, should the local jurisdictions desire it.

HEALTH AND WELFARE

AB 3508 (Foran) — Eliminates the Community Work Experience Program, which requires some welfare recipients to work in order to receive benefits.

This [program] has every right to be tested and already has produced results that indicate that the tests should continue. To cut it off now, at the 11th hour when final evaluation is about to start, makes no sense.

AB 3535 (Arnett) — Reduces the county share of Medi-Cal funding from $285.4 million to $271.8 million.

This proposed reduction is not fiscally sound because it represents a direct violation of the concepts of SB 90 (1972) as they relate to the shift of costs between counties and the state.

AB 4196 (Brown) — Enacts the "Safe Child-Care Facilities Act of 1974", providing funds from state and local sources to expand child-care facilities.

Several provisions contained in this bill raise substantive issues which cannot be resolved administratively. The bill would permit the superintendent of public instruction to make grants to public agencies, who in turn would provide funds to private nonprofit corporations. This provision attempts to subvert the intent . . . . of the state Constitution.

SB 1290 (Dymally) — Establishes a statewide children's health-care program, and authorizes expenditure of $6 million in federal funds, if available.

SB 1290 seeks to establish services already available under Medi-screen and Medi-Cal.

SB 1485 (Gregorio) — Significantly revises the foster-child program and provides $25 million in state funds for reunification services.

I find current reallocation-of-program efforts preferable to the mandated redirection and rigidity that this bill would impose.

SB 1666 (Stiern) — Appropriates $6.7 million to refund payments made under the relatives' responsibility program instituted in 1971 under the Reagan welfare reform program.

This bill denigrates the obligation to support

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one's parents, which has a legal as well as a moral basis. I am aware that recent legislation has shaken this precept, but it would be weakened almost to the point of nullification if this legislation were enacted.

SB 1970 (Wedworth) — Includes outpatient chiropractic services in the Medi-Cal program without the written prescription of a physician.

Passage of this bill would serve primarily to benefit chiropractors without affording Medi-Cal beneficiaries any greater availability of health-care services.

SB 2118 (Moscone) — Authorizes the practice of acupuncture.

This bill . . . . does not contain any controls or qualifications to insure the quality of the acupuncture practitioner.

HOUSING

AB 352 (McCarthy) — Appropriates $20 million for the state to provide loans and grants for rehabilitation of low- and moderate-income housing and commercial structures.

This is a new housing program activity for California which basically duplicates the federal Section 312 rehabilitation program.

AB 417 (Wilson) — Grants low-income senior citizens an additional $60 million in property-tax relief.

The bill . . . . removes the means test, thereby extending the program to citizens who can well afford to pay property taxes.

AB 2966 (Chacon) — Creates the California Housing Finance Corporation to develop housing for low- and middle-income families; empowers the corporation to issue $200 million in revenue bonds.

Basically, the bill provides an excessive delegation of power, places an inappropriate burden on California's citizens to relieve big business and, unfortunately, would not help those truly in need.

AB 3068 (Mobley) — Appropriates almost $4 million from the state general fund to the Cal-Vet program.

I do not believe it is appropriate to supersede budgetary priorities agreed upon by the Legislature in each of the preceeding nine years.

SB 148 (Moscone) — Creates a California Housing and Community Development Commission with power to issue $100 million in revenue bonds to finance housing for low- and moderate-income Californians.

It is inappropriate for the state to become involved in such a program of direct grants for housing.

LABOR

AB 3244 (McCarthy) — Establishes a procedure for cracking down on violators of child-labor laws in agriculture.

While I do not . . . . condone the illegal use of child labor, I have grave concerns about adding administrative and civil enforcement penalties on top of the present criminal sanctions which appear to be adequate to protect against the illegal use of child labor.

AB 3400 (Fenton) — Extends unemployment insurance coverage to farm workers.

California's agricultural products must compete with farm products from states which do not provide similar benefits . . . .Enactment of this measure would have the effect of increasing food prices for California consumers.

AB 3671 (Deddeh) — Increases unemployment benefits by about $53 million a year.

To place the Unemployment Fund in a deficit situation at this time would be unwise.

PUBLIC EMPLOYEES

SB 614 (Moscone) — Provides $8 million to establish a dental-insurance program for state workers during the current fiscal year.

I find it necessary to veto this legislation, not because of the appropriateness of dental insurance for state employees but because of the estimated state cost of $16 million [for a full fiscal year].

MISCELLANEOUS

AB 493 (Quimby) — Creates the California Public Telecommunications Council, with a $775,000 appropriation, to promote a statewide public television system.

The educational, cultural, and community needs of the citizens of our state can best be served without the intervention and controls of the state.

AB 1322 (Ralph) — Revises horse-racing parimutuel license fees for smaller track operations.

AB 1322 would benefit a small number of racing meets at a cost to the general fund of nearly one-half million dollars. I am not aware of any compelling evidence to support the change in the license-fee schedule proposed by this bill.

AB 1609 (Sieroty) — Enacts "California Right-to-Financial-Privacy Act", restricting availability of information from financial institutions to public officials.

The right of privacy must be balanced against the right of the public to have savings and investments protected. This protection can only be effective if the various agencies of government can have speedy access to records.

AB 2696 (Quimby) — Requires all restaurants to have on the premises a device for removing food lodged in a diner's throat.

The potential for injury at the hands of an untrained person far outweighs the benefits which could accrue through the use of such a device.

AB 3330 (Powers) — Prohibits withholding final payments to an original contractor for work not in dispute when final acceptance has been withheld due to a dispute involving a subcontractor.

At the present time, the public agency . . . deals solely with or through the prime contractor; this bill erodes that effective current relationship and weakens contract management by the state.

Major measures enacted

What follows is a selection of bills signed into law by Governor Reagan. Most of them were passed by the Legislature during the final days of the session. Urgency measures and appropriations, which require two-thirds majority votes, took effect immediately on signing; most of the signed legislation will take effect January 1, 1975.

CRIMINAL JUSTICE

Rape. SB 1678 (Robbins) — This measure, a major goal of women's organizations, limits testimony on the prior sex experience of a rape victim during trial. AB 3658 (Sieroty) — This related bill prohibits a judge, in instructing a jury, from using the words "unchaste character" in referring to rape

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victims. [See "Protecting rape victims' rights", *CJ,* July 1974.]

Cussing. SB 2294 (Song) — It will no longer be a crime to swear in the presence of women and children, as opposed to men.

Prisoners. SB 1909 (Nejedly) — Male and female prisoners in the state correctional system must receive equal privileges and programs.

Cancer. AB 3406 (Cline) — Penalties for the false advertising of cancer cures will be increased when this bill takes effect.

EDUCATION

Scholarships. AB 3892 (Knox) — The state will provide 1,250 scholarships of $900 each to private-college students during each of the next three years.

Playgrounds. SB 566 (Marler) — This bill makes it a misdemeanor to refuse the order of a school official to leave a playground.

Lunches. SB 2020 (Moscone) — Governor Reagan reduced by nearly a million dollars the $13.6 million this measure appropriates to expand the school meal program. The final sum is $12.5 million.

Indians. SB 2264 (Moscone) — Ten Indian education centers will be established under this measure, which carries a $400,000 appropriation.

Innovation. AB 27 (Vasconcellos) — This will allow school districts to initiate any programs not specifically outlawed.

Equality. AB 3650 and 3651 (Bond) — Females will be given an equal footing with males in high-school and collegiate athletic programs.

ENVIRONMENT

Energy. AB 1575 (Warren) — Under this comprehensive bill, similar to one vetoed by Governor Reagan in 1973, a new state commission will be established to control the sites of new power plants and to establish energy-conservation programs for the state. [See "How the new energy act should work," *CJ,* July 1974.]

Charles Warren

Suisun Marsh. SB 1981 (Nejedly) — As originally approved, this measure would have appropriated $4,190,000 for the preservation of wildlife habitat at the north end of San Francisco Bay known as Suisun Marsh. Reagan reduced the appropriation to $190,000.

Basic California government guide now available

The expanded *1974-74 California Government and Politics Annual,* a 112-page selection of *Journal* articles on major issues and elements of state and local government, is now available. This year's edition contains a new section, "Practical Guide to California Politics and Government", written by Ed Salzman, *Journal* editor.

For your copy, send $3.13 (which includes sales tax and mailing) to Journal Annual, 1617 10th St., Sacramento 95814.

Smog devices. SB 2471 (Holmdahl) — Before this measure was enacted, all California cars built between 1966 and 1970 were required to have special oxides-of-nitrogen devices installed within the next year. This measure limits the program to the six counties in the South Coast Air Basin.

Parks. SB 907 (Collier) — As approved by the Legislature, this bill established a state seashore within the park system and appropriated $64.6 million for acquisition and development of 38 park sites. Reagan trimmed the expenditure to $41 million.

Sports cars. SB 1478 (Song) — This legislation will exempt some limited-production, high-performance sports cars from smog-control standards.

Endangered species. AB 2441 (Boatwright) — A special fund will be established for the preservation of endangered and other non-game native species, but contributions will be voluntary.

Pilot lights. SB 1521 (Alquist) — This will prohibit sale of residential appliances with gas pilot lights after January 1, 1977, or two years after an alternative is certified, whichever comes later.

[For additional information on environmental bills, see "Respectability for the 'eco-freaks'," *CJ,* September 1974.]

HEALTH AND WELFARE

Abortion kickbacks. SB 2243 (Roberti) — This bill imposes stricter penalties on medical referral kickbacks. It is designed primarily to curb illegal abortion kickbacks.

Prophylactics. SB 1852 (Beilenson) — Any retailer — not just pharmacists — will be able to sell prophylactics.

Midwifery. SB 1332 (Beilenson) — This lifts the ban on midwifery and provides for certification of nurse-midwives.

Mentally ill. AB 4481 (Vasconcellos) — Mental patients will have the right to refuse shock treatment and other forms of therapy under this bill. AB 4513 (Lanterman) — Governor

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Reagan's budget cut of $18 million for mental health programs was restored with enactment of this appropriation.

LEGAL AFFAIRS

Probate. SB 1715 (Marler) and two other bills designed to reduce the red-tape and costs of probate proceedings were enacted.

Auto insurance. SB 1471 (Bradley) — While legislators deadlocked on no-fault auto insurance, they did enact SB 1471, which tightens the financial-responsibility regulations for automobile owners and thus forces virtually all of them to purchase insurance.

News Reporters. SB 1858 (Song) — Reporters will be protected from contempt-of-court citations under this bill if they refuse to divulge unpublished materials or notes.

Unruh Act. SB 1380 (Petris) — Sex discrimination will become a ground for legal action against California businesses through this extension of the Unruh Civil Rights Act.

Alimony. SB 2392 (Whetmore) — This measure cuts from alimony divorced persons living with new partners as though they were married.

Death. AB 3560 (Arnett) — An individual is officially dead when his brain ceases to function.

Judges. Governor Reagan signed 19 bills creating 49 new municipal and superior judgeships throughout the state. But he accused Democrats in the Legislature of partisanship because these posts cannot be filled, under these laws, until after Reagan leaves office in January.

TRANSPORTATION

Gas stations. SB 1932 (Roberti) — Service stations failing to post their hours of business will be subject to $50 fines.

BART. SB 1966 (Mills) — Governor Reagan said he signed this bill with great reluctance because it continues the special half-cent sales tax in the Bay Area Rapid Transit District (Alameda, Contra Costa and San Francisco counties) through the end of 1977 to bail BART out of its continuing fiscal crisis.

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A. Total copies printed	6,063	5,500	7,500
B. Paid circulation			
1. Sales through dealers and carriers, street vendors and counter sales	235	42	240
2. Mail subscriptions	5,056	3,800	6,423
C. Total paid circulation	5,291	3,842	6,663
D. Free distribution by mail, carriers or other means			
1. Samples, complimentary and other free copies	128	188	131
2. Copies distributed to news agents, but not sold	0	0	0
E. Total distribution	5,419	4,030	6,794
F. Office use, left-over, unaccounted, spoiled, after printing	644	1,470	706
G. Total	6,063	5,500	7,500

I certify that the statements made by me above are correct and complete.
THOMAS R. HOEBER, Publisher

MISCELLANEOUS

Pay toilets. AB 1650 (Fong) — The long campaign of Assemblywoman March Fong to outlaw pay toilets in publicly owned buildings came to fruition.

Cremation. AB 1828 (Badham) — Low-cost cremation societies will come under the regulation of the state Board of Funeral Directors and Embalmers.

Spanish. SB 2066 (Carpenter) — In counties with 10 percent or more Spanish-surname residents, property-tax information will be submitted to homeowners in both English and Spanish. Under AB 2797 (Alatorre), merchants dealing primarily with Spanish-speaking customers will be required to provide contracts in both Spanish and English.

Motion pictures. SB 1823 (Robbins) — This measure creates the Motion Picture Development Council within the state Department of Commerce to promote the production of motion pictures in California.

Credit cards. AB 3342 (Sieroty) — Credit-card companies will no longer be allowed to specify in their contracts with retailers that the merchants cannot offer discounts for cash customers.

Counties. AB 4270 (Knox) — A new procedure for consolidating two or more counties is established.

Open meetings. AB 4253 (Bagley) — Except for enforcement proceedings and discussion of litigation, meetings of the state Public Utilities Commission must be open to the public.

Presidential primary. SB 116 (Alquist) — After many years of trying, Senator Alfred Alquist of San Jose finally won Governor Reagan's approval of a bill establishing the Oregon-style open presidential primary in California — but only for the Democratic Party.

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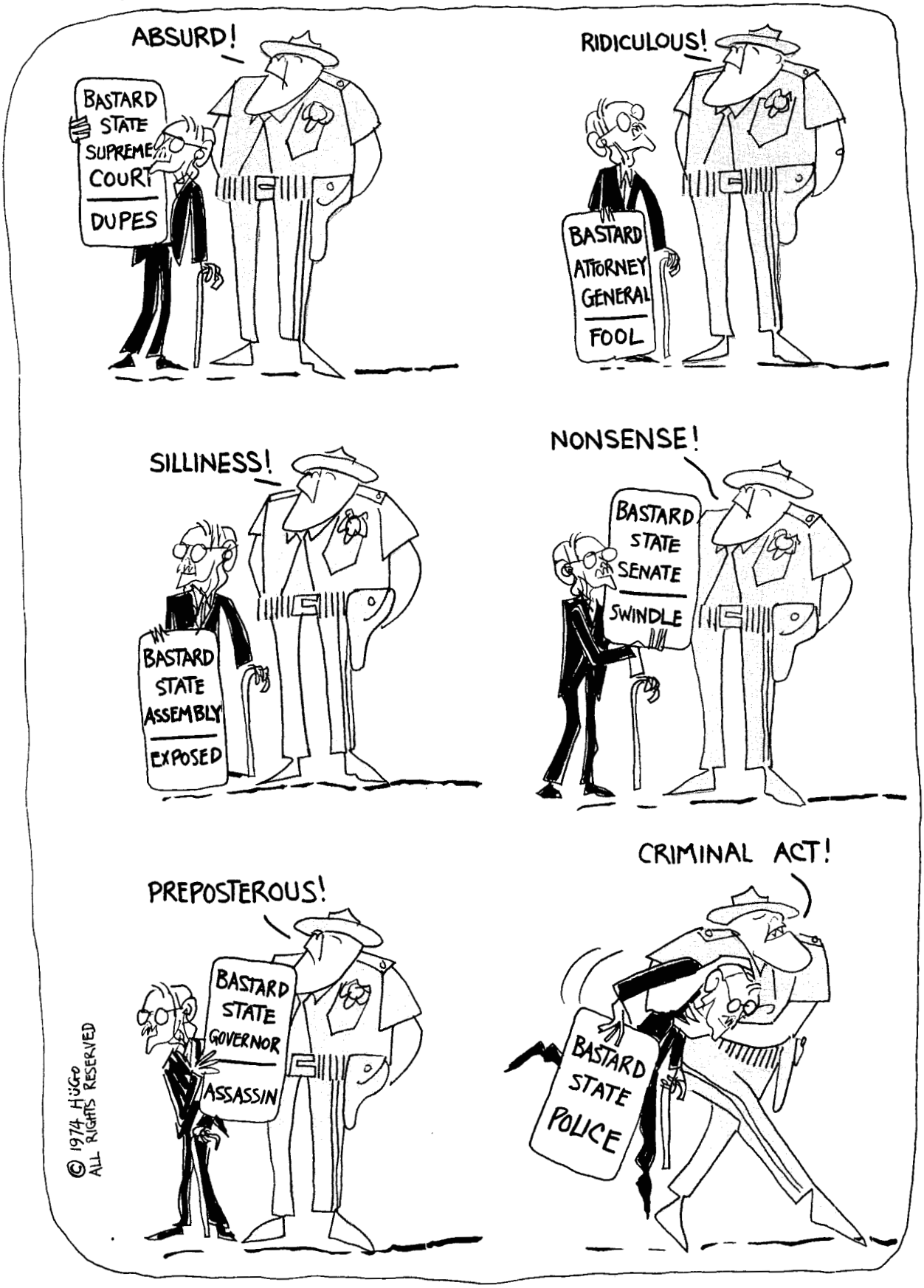
Caucus

by HüGo



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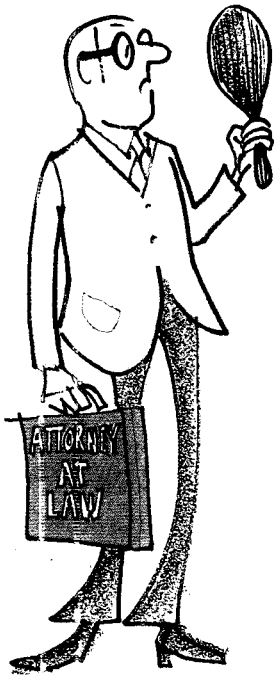

The new State Bar insiders--- activists, women, trial lawyers

By KATHLEEN NEUMEYER

"In Los Angeles, it is common knowledge that there is a great deal of sophisticated 'capping' going on. Everyone knows about it, but nobody reports it because it is considered to be the historical attitude of the Bar to do nothing about it."

The scene was a "Spit and Growl" session during the 47th annual meeting of the State Bar of California, held in Sacramento's new convention center in September. The speaker was one of nearly a hundred rank-and-file members who had filled every seat and lined the walls of the small meeting room to tell their leaders what they thought about their beleaguered profession in a Watergate-besmirched era. The 15 members of the Board of Governors took turns, along with the five newly elected incoming governors, at fielding questions from attorneys concerned with the same ethical problems that have been troubling the public. A recent series of articles in the Los Angeles *Times* exposing incidents of "capping" — illegal solicitation of clients — had embarrassed them, and they were worried as much about the impact on their image as about the practice itself.

The three-hour session was something new for the Bar's annual meeting. It gave a couple of dozen lawyers a chance to sound off at the leadership of an organization that controls every attorney who practices law in the state. And, for years, that leadership had been dominated by a handful of large law firms in Los Angeles and San Francisco. So in its modest way, the institutionalized talking-back session in Sacramento reflected a slight opening up of the Bar itself stemming, in part, from an infusion of youth and feminine participation.

Growing younger

Since 1927, California has had what is known as an integrated bar, one established by statute, to regulate the practice of law within the state. The State Bar is an arm of the Supreme Court, which officially admits all lawyers and disciplines those charged with disobeying the Bar's rules.

As of January 1974, there were 44,000 lawyers in California. Of those, 40,500 were active members licensed to practice, and 3,500 were inactive members — mostly retired practitioners. California has an extraordinarily young Bar today — more than half of its members having been in practice for less than nine years. Some 6,795 had been admitted less than two years as of January, and another 9,274 had been practicing for more than two years but for less than five.

The Bar is economically self-sufficient. Its income comes from dues ($45 to $80 a year), fees collected by the Committee of Bar Examiners, advertising in the State Bar *Journal*, applications for specialization certificates and interest on various bank accounts. The 1974 budget called for expenditures of $4.2 million, the largest single appropriation being for salaries and benefits paid the Bar's 146 employees, including 47 attorneys and professional staff.

The budget allocates $153,000 to the Bar's legislative program. At the annual Conference of Delegates, some five hundred representatives from local Bar associations throughout the state hammer out the proposed legislation their three lobbyists in Sacramento will attempt to propel through the Legislature. In recent years, the Bar has enjoyed a high rate of success with legislation concerning changes in the evidence code, changes in service of process, and streamlining the judicial system.

Disciplining function

Seeing to it that its members hew to the straight-and-narrow line mapped by its *Rules of Conduct* is a primary responsibility of the Bar, one that absorbs 25 percent of the annual budget. Despite this preoccupation, the Bar receives most of its criticism from a public that believes that the wrongdoings of attorneys are too often ignored and the perpetrators subject to a mere rap on the knuckles. In the past several years, however, the Bar's disciplinary system has been revised to a point that Seth Hufstedler, the immediate past president of the Bar, boasted in the May-June issue of the State Bar *Journal* that it is now "the best yet developed in the United States."

The great bulk of complaints, according to Bar officials, reflects public-relations lapses rather than wrongdoing. "A major complaint, in terms of numbers, is 'I can't get my lawyer to return my telephone calls'," said current Bar President Brent M. Abel. "Just communicating with the client, sending him copies of every letter that goes out on his file, having a secretary if necessary return his call, would improve the image of attorneys more than you can imagine."

Hearing procedure

Hufstedler said that the Bar had tried to make it easy for the public to make complaints, while at the same

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Punishing guilty attorneys

During the year ending June 30, 1974, 4,187 complaints were lodged against California attorneys. More than half of these were resolved without disciplinary proceeding, and 1,936 were considered by preliminary investigating committees; 276 complaints resulted in the issuance of a Notice to Show Cause and a full hearing.

Because the wheels of justice within the Bar grind as slowly as those in the courts, figures on disbarments and suspensions during 1973-74 are not yet available. However, during 1972-73, some 3,894 complaints were made, 1,197 preliminary hearings were held and 192 Notices to Show Cause issued. In nearly half of those cases, discipline was imposed or the accused attorney resigned. Of the 78 attorneys disciplined, 14 were disbarred or resigned with charges pending, 36 were suspended for up to three years, 6 were publicly reproved, and 22 were privately reproved.

When the Disciplinary Board finds that an attorney should be disbarred or suspended, the case is submitted to the Supreme Court for final action. From 1971 to 1973, 92 cases were referred to the Court; in 76 cases, the court followed the board's recommendations.

time protecting lawyers from groundless charges. Where there is evidence of misconduct, the Bar brings into play an elaborate trial system resembling civil-court proceedings. Although the respondents may be represented by counsel, many choose to represent themselves (or perhaps, suggested a Bar staff member, out of embarrassment. "The wiser ones retain counsel," she said.) The respondent has the right of having the proceedings open to the public, but most (again probably out of embarrassment) opt to keep them closed; there was only one request for an open hearing during 1973, and two during 1974.

The Bar maintains strict confidentiality about all disciplinary matters until the case has been presented to the Supreme Court for final action. Attorneys complain that this hush-hush aura surrounding disciplinary matters makes it hard for them to tell what kind of offenses merit what kind of punishment. Hufstedler suggested that the Bar consider making such cases public as soon as a Notice to Show Cause has been issued. "As in a criminal proceeding," he said, "the grand jury proceedings are secret but the indictment and trial are public. If there is adequate basis for the charge to justify the issuance of a Notice to Show Cause, perhaps the proceedings should then be public."

Getting disbarred

What does it take to be disbarred? Some examples:

- The disciplinary board recommended the suspension for three years — but not disbarment — of an attorney convicted of possessing 25 pounds of marijuana. After his arrest, he arranged for the shipment of a larger quantity from Florida to California. The board concluded that he was guilty of an act involving moral turpitude.
- Disbarment was recommended for an attorney convicted of preparing and filing 12 false federal income-tax returns with claims for refunds.
- The board also called for disbarment of an attorney who on seven occasions kept the proceeds from cases he had settled.
- Another lawyer received a settlement for a client but, before telling him about it, got the client to promise to make him a loan if he got the money. Thereupon, the attorney informed the client that he did have the money, and promptly borrowed it, then refused to repay it, claiming that it was owed to him for legal service. The board found the loan to be three times larger than the fee owed, and issued a private reproval. (In private reproval cases, both the attorney and the complaining client receive a letter notifying them of the action, but the client's copy doesn't mention the name of the attorney involved.)

The longer an attorney has been in practice, the less likely discipline becomes. In a check of 42 attorneys disciplined by the Supreme Court, 10 had been in practice for fewer than five years, 17 for more than five but fewer than 10 years; 7 had practiced for 11 to 15 years; 5 for 16 to 20 years; only 3 had been in practice for more than 20 years. "Practicing with other lawyers is probably the best way to avoid discipline," Hufstedler said. "If one lawyer must justify his conduct to another and keep accurate records for his firm, he is less likely to do something that he might be ashamed of."

The establishment

At the "Spit and Growl" session in Sacramento, one lawyer complained that he "never saw where any members of the so-called prestigious firms were disciplined" and suggested that there "must be some wrongdoing there." Maybe so, but the unsuccessful lawyer out on his own is more susceptible to temptation than is the highly paid practitioner in a large firm. Then, too, a lot of top-notch graduates from law schools across the country want to practice in California, and the "prestigious" firms have a lot of talent to choose from — and screen it carefully.

Under State Bar procedures, a disbarred attorney may not practice law or apply for re-admission for five years. If the attorney resigns while charges are pending — as former President Nixon did — the procedure is the same as if the lawyer had been disbarred. (So far, seven members of the California Bar have been named in the Watergate scandal and, in a rare waiver of confidentiality, the Bar announced last summer than all seven were under investigation. Two — Herbert Porter and Herbert Kalmbach — have been suspended.)

Running the Bar

Although the day-to-day operation of the Bar is handled by a large force of employees, policy-making is done by the Board of Governors, whose members are elected for three-year terms. The board meets monthly, alternating between San Francisco and Los Angeles and meeting annually in Sacramento, with an occasional session at Palm Springs or held in conjunction with the American Bar Association or some other group. Members can count on attending meetings at least one full

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Who runs the State Bar?

The California Bar is headed by **Brent M. Abel**, 58, a partner in the large San Francisco law firm of McCutcheon, Doyle, Brown & Enersen, which has provided two previous Bar presidents.

Other senior members of the 15-member Board of Governors:

Joseph W. Cotchett, vice president, is at 35 the youngest governor. A partner in the San Mateo firm of Cotchett & Hutchinson, he was sponsored by the Independent Trial Lawyers Association (ITLA).

Arthur N. Hews, 49, a vice president and treasurer, is another ITLA candidate. He is a partner in the Santa Ana firm of Hews & Munoz, Inc.

George Hillsinger, 48, a vice president also supported by ITLA, formerly was a partner in the large Los Angeles firm of Spray, Gould & Bowers, and recently entered into a new partnership, Hillsinger & Costanzo.

Howard Wiener, 43, fourth vice president, is a West Covina lawyer with Wiener, Newman, Chrisman & Baldonado. (He is the Los Angeles County governor practicing law outside the city limits, as specified by statute.)

week a month, and most estimate that Bar work takes up nearly half their time. In recent years, there has been a tacit understanding among the governors that the one selected president would devote full time to the office. These time demands constitute a major reason why few sole practitioners run for the board and why most governors come from medium-to-large law firms, since only a fairly good-sized firm could afford to support a partner who devotes half time to free service.

Although attorneys from the large metropolitan areas obviously dominate the Bar — five governors are from Los Angeles County and four from the San Francisco Bay area — this happens to reflect the distribution of lawyers. Los Angeles County alone has 40 percent of the state's attorneys. Until four years ago, the board traditionally elected its president from San Francisco and Los Angeles in alternate years. In 1971, however, the board decided to abandon the custom. Since then, three out of the four presidents have come from Los Angeles County. In selecting committees, on the other hand, an attempt is made to balance membership, north and south.

Old guard

When the State Bar was established in 1927, a committee of four attorneys — two from the north and two from the south — was appointed to get it going. For 40 years thereafter, members of the big firms in San Francisco and Los Angeles ran the Bar.

In Los Angeles, a group from O'Melveny & Myers, Gibson, Dunn & Crutcher, Latham & Watkins, and several other large firms, gathered at the old Breakfast Club in the Los Feliz area to select a slate of candidates for board vacancies. Who else but partners in big firms, so the reasoning went, could afford to serve? In District Eight, the big firms in Orange and Riverside counties alternated in selecting a partner for their one seat. In San Francisco, a group dominated by the Montgomery Street firms — and especially the partners in California's biggest law office, Pillsbury, Madison & Sutro — selected the nominees.

About eight years ago, however, a group of trial lawyers in the Los Angeles area, headed by Burbank criminal lawyer Richard Rogan, decided to challenge the establishment and put up its own slate. "We weren't being critical of them," Rogan recalled. "We just thought that the Bar could use an infusion of new talent." Also, the Bar had long been dominated by office lawyers, and trial lawyers wanted a say on several issues coming before the board. These included changes in the system of *voir dire* — questioning of prospective jurors — and no-fault insurance. Rogan's group, the Independent Trial Lawyers Association, began running candidates statewide, and particularly in Los Angeles County. That first year, Rogan won; in the next few years, more of the group's candidates were elected.

The old Breakfast Club has been razed, but the nominating committee that took on its name remains active, with its key members also powerful in the Los Angeles County Bar Association. Hufstedler was one of the group's candidates, and his law partner, Charles Beardsley, preceded him as a governor.

In San Francisco, too, there has been what Joanne Garvey, whose term as governor ended in September, described as "not a revolution but a turnover" in Bar politics. "There used to be a process in San Francisco where a group of lawyers selected the candidates by some mysterious laying on of hands," she said. "No one knew what this process was, but the younger, more activist lawyers decided to run candidates. We searched for someone who would be acceptable to all elements of the Bar." She was the choice, and others have followed.

There are no rules about campaigning for the board, but most candidates send out brochures describing their background and listing their supporters. Rogan estimated that a successful campaign in Los Angeles County can cost up to $10,000 because of the large number of lawyers to be contacted. The money is donated by other attorneys, with deficits made up by the candidates. (Garvey, on the other hand, said that her campaign three years ago had cost her only $37.50 for postage, but she added that one candidate from San Francisco this year reportedly spent nearly $4,000.)

More change

The change may be modest, but it is likely to continue. For example, Garvey was the first woman selected to the board, but she is looking over her shoulder at the "mobs of women behind me." She started out in the Barristers, became its first female president. "There have been two since," she said, "but there are women's lawyers groups, too, and it is chic now to belong to one. In urban centers, it is easy to get on the delegation for the Conference of Delegates, so I expect more women to come up that way.

"But one thing that has always stood against women's rising in the organized Bar," Garvey continued, "is that it requires a lot of time. Women have not been in the kind of practices that allowed them to devote that much time to it. To be on the Board of Governors, you have to be independently wealthy or come from a firm that will support you while you give your time."

But the once-clubby atmosphere of decision-making is gradually changing nonetheless. Whether it will change enough to help rehabilitate the profession's image since Watergate is another matter.

Seth Hufstedler Joanne Garvey Brent Abel

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A debate is under way these days among the justices of the California Supreme Court. It might be described as a match between the advocates of state's rights and those of federalism. Less academically, it is a disagreement about how much attention the California court must pay to the changing U.S. Supreme Court. The dispute will surface in nearly any case involving civil liberties. And no less an issue than the possible retooling of California's entire school-finance system hangs in the balance. The outcome is far from certain.

A philosophical struggle within the Supreme Court

By RONALD BLUBAUGH

For at least 30 years, the California Supreme Court has been widely considered as one of the nation's most innovative and respected state supreme courts. Basically liberal, it grew in fame under former Chief Justice Phil S. Gibson and the scholarly Roger Traynor, who served together for nearly 25 years. Its decisions in the fields of product liability, contracts of laws and rights of the accused have set the pace for courts throughout America. On a number of occasions, the United States Supreme Court has cited with approval earlier California decisions that the nation's highest court decided to follow.

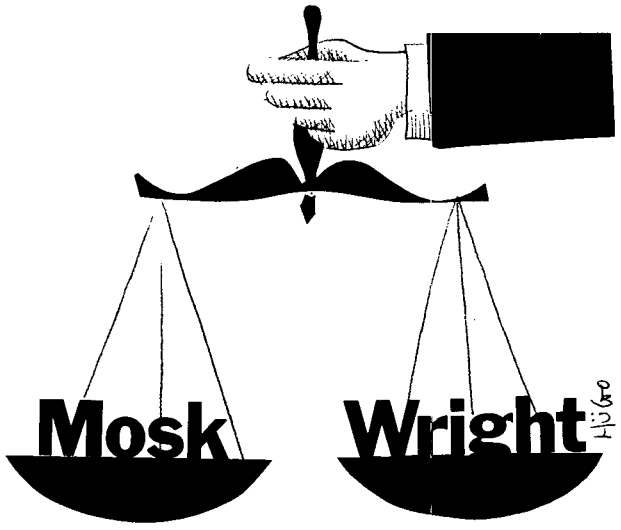
In most areas of the law, a state court can be as pioneering as it wants and courts in other states will follow or disregard its decisions as they wish. But in the important area of constitutional law, the California Court must carefully consider the decisions of the U.S. Supreme Court, and it is in this domain that change is afoot.

Four of the nine members of the U.S. Supreme Court have been appointed since mid-1969, beginning with Chief Justice Warren Burger, who replaced Earl Warren. In 1970 came Justice Harry Blackmun, followed in 1972 by Justices Lewis Powell and William Renquist. Describing Supreme Court members in terms of liberal or conservative is at best a risky business. Blackmun, for example, is generally considered to be one of the Burger court's leading conservatives; yet, he is the author of the decision that struck down state restrictions on abortion. Burger, also considered to be a conservative, wrote a decision requiring that hearings be held before a parolee can be returned to custody — considered by prison-reform groups to be a significant advance.

Still, it is clear that the Burger court is more conservative than the Warren court. And that conservatism poses the problem that now troubles the California Court; for on some basic questions, the U.S. Supreme Court is sending down decisions that are more conservative than some members of the California Court wish to follow.

Federal issue

Under the American system, state courts consider both state law and federal law in reaching decisions. In matters of state law, the state court is supreme and cannot be reversed by the U.S. Supreme Court. In matters of federal law, the state court must follow the decisions of the U.S. Supreme Court. What happens when both state and federal laws apply? As was demonstrated in a number of Southern civil-rights cases, the state law cannot be followed if it is more restrictive than the federal Constitution. But there is no prohibition against a



The author, a professional journalist and student of law, has contributed a number of articles to the Journal, *most recently "Making crime laws fit today's morality" in the June issue.*

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state court's finding that state law grants more personal rights than the federal Constitution provides.

Consider, then, the case of *Roger Jon Diamond* v. *Frank Bland*.

Diamond is the attorney for the People's Lobby. In 1970, he sought an injunction to stop interference by property-owners with People's Lobby efforts to collect signatures at a San Bernardino shopping center. In most circumstances, the federal Bill of Rights does not apply to conduct by private parties. However, in a series of modern cases, the U.S. Supreme Court has held that, under circumstances where the owners of private property have assumed government-like functions, they are bound by the Constitution.

When the California Supreme Court first got the case, it reviewed those modern federal cases and held that the San Bernardino shopping center must allow free speech. The vote was 6-1, in an opinion written by Justice Stanley Mosk, with Justice Marshall McComb in his frequent role as the lone dissenter. In 1972, however, the U.S. Supreme Court faced a similar case involving the huge Lloyd Shopping Center in Portland, Ore. Voting 5-4, that court held that the shopping center need not permit the distribution of anti-war leaflets on its property.

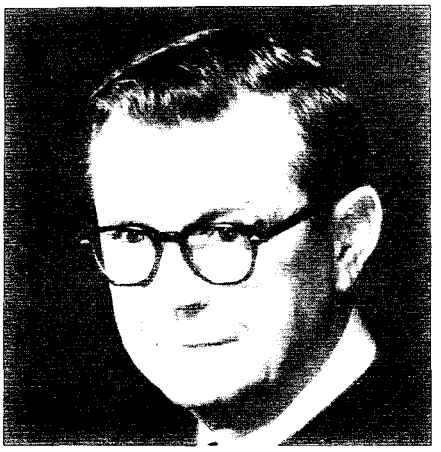
The San Bernardino shopping center went back to court, seeking a reversal of the original California decision. When the case got back to the California Supreme Court, a split developed. Mosk argued that, on independent state constitutional grounds, the original California decision should be affirmed. Justices Matthew Tobriner and Raymond Sullivan agreed. But Justices Louis Burke, McComb and William Clark — who replaced the late Raymond Peters — called for the court to follow the federal decision. Chief Justice Donald Wright agreed with the latter side, and on a 4-3 vote the court reversed itself and followed the U.S. Supreme Court's lead in the Portland case.

In his dissent to the second *Diamond* decision, Justice Mosk vigorously criticized the court's "surrender" to the U.S. Supreme Court ruling. Noting that the Portland case was decided on a 5-4 vote, Mosk declared:

> Leaning on that fragile reed, the majority now abjectly surrender the previous considered position of this court, overlook the unmistakable independent non-federal grounds upon which our earlier opinion could have been based, ignore basic guarantees of our state constitution, and deal a blow to fundamental principles of federalism as old as our Republic.

Developing that theme still further in a 1973 speech to his fellow alumni of the University of Chicago, Mosk said that as "one-seventh of the Supreme Court of our state" he is content to decide key questions of human rights under the state Constitution. He noted that the court had taken precisely that approach in considering the constitutionality of the death penalty and had ruled on the basis of the state Constitution. "There is not the slightest impropriety when the highest court of a state invalidates state legislation, state administrative action, or the conviction of a defendant in a state prosecution as being violative of the state constitution," he said.

With the U.S. Supreme Court's growing conservatism, Mosk said, state courts should exercise their powers. "I think the trend toward considering only the federal Constitution arose out of a fear that states would use state's rights to repress minorities," he said in an interview. " 'State's rights' became a code word for 'segregation' and 'racial discrimination'. Due primarily to the Warren court and its interpretations, we are over that hurdle. State's rights can no longer be used to thwart individual rights. I think today we can, in good conscience, advocate state's rights without the fear of being deemed a bigot."



Donald Wright

Wright's view

On the other side of the debate, the key man is Chief Justice Wright. An appointee of Governor Ronald Reagan, Wright is immensely popular with lawyers and judges. He is considered to be a good administrator, a personable man with a distinguished legal background who has shown a flair for independence. He was the author of the decision outlawing the death penalty in California, a ruling that much displeased the Governor.

In an interview, the Chief Justice said that he has no hesitation in reaching decisions contrary to the U.S. Supreme Court — if he believes them to be justified under distinct language in the California Constitution. He points to the death-penalty decision as an example. While the federal Constitution prohibits "cruel and unusual" punishment, the California Constitution prohibits "cruel or unusual" punishment. When there is such a marked difference between the words of the two constitutions, Wright will reach a decision on how he interprets the meaning of the state constitutional wording.

But as one of the two justices who switched votes on the *Diamond* case, Wright believes that a different approach must be taken when the wording is identical. "I thought the original decision [in *Diamond*] was clear under the cases already sent down by the Supreme Court," Wright said. "I was very surprised when *Lloyd* came down." But when it was announced, the Portland case was controlling for Justice Wright. ("For the life of me, I could see no distinction between them," he said.)

The Chief Justice disagrees with Mosk's view that the California Supreme Court can take a free hand under its own Constitution in such cases. "I feel we have to rely both on the state and federal constitutions," he said. "But, if the provisions are identical — and many are identical — and the United States Supreme Court has spoken on the issue, I am unwilling to have two sets of rules. We should follow the decision of the United States Supreme Court." It would create confusion, he said, if there were two sets of rules.

Room to maneuver

Under the current composition of the California court,

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the Wright view seems to command a 4-3 margin. That still leaves a considerable amount of room for flexibility. To Justice Wright, any given case will turn on whether he finds the language in the two constitutions to be identical.

Justice Burke is soon to leave the court, to be replaced by Justice Frank K. Richardson of the 3rd District Court of Appeal in Sacramento. Although Burke and Richardson profess to hold a great admiration for one another, it would be the wildest speculation to anticipate how Richardson will line up on the issue. If Richardson were to follow Burke's reasoning, however, it would create an interesting situation when the California Supreme Court considers for the second time the case of *Serrano* v. *Priest*.

Serrano — I

John Serrano Jr., a Los Angeles social worker, sued State Treasurer Ivy Baker Priest in an effort to reform the California school-finance system. His son, John, attended school in a poor district and, he reasoned, his child received an education inferior to that provided by nearby school districts. When Serrano initiated his lawsuit six years ago, the Los Angeles Superior Court refused to hear the case on its merits, contending that there was no issue that the court could consider. (Courts historically refuse to accept issues that they believe can be solved only through political means, and the first judge who decided Serrano's case considered it to be such a case.) Serrano appealed and, in 1971, the California Supreme Court wrote an opinion that, technically, did no more than order the Los Angeles trial court to hear the case. But, in effect, the 1971 decision went further than that; in 63 pages, the court explained in careful detail why the present system of financing public education in California violates the equal-protection clause of the 14th Amendment to the U.S. Constitution.

Stanley Mosk

The decision excited lawyers throughout the country, and a number of lawsuits was filed in both state and federal courts under the *Serrano* theory. In 1973, one of those lawsuits got to the U.S. Supreme Court from the federal court in Texas. And on every legal issue in the case, *San Antonio Independent School District* v. *Rodriguez*, the court held just the opposite of the California Court. The nation's highest court found that education is not a fundamental right, that the states do not have a compelling interest in the present school-finance systems and that, therefore, there is no violation of the 14th Amendment.

But that was not the end of *Serrano*. In a *Serrano* footnote, Justice Sullivan cites two sections of the California Constitution — a requirement that "all laws of a general nature shall have a uniform operation," and a prohibition against "special privileges or immunities" for any class of citizens when those benefits are not shared by the general citizenry. Those sections, wrote Sullivan, are the virtual equivalent of the U.S. Constitution's equal-protection clause. "Consequently, our analysis of plaintiffs' federal equal-protection contention is also applicable to their claim under these state constitutional provisions," the note states. To the Los Angeles Superior Court judge who heard the case on the second time around, Bernard S. Jefferson, that meant that despite the *Rodriguez* decision the state Constitution demanded that the school-financing system be found unconstitutional.

Serrano — II

When *Serrano* gets back to the California Supreme Court the second time, the case may very likely turn on Justice Wright's meaning of the word "identical". Are the two sections cited in *Serrano – I* "identical" to the equal-protection clause of the U.S. Constitution?

The presence of Proposition 7 on the November ballot complicates the question. That measure, proposed in great part by the Constitutional Revision Commission, would rewrite the California constitutional sections dealing with basic human rights, adding "due process" and "equal protection" clauses to it. The language is nearly identical to the clauses found in the federal Constitution. Proposition 7 would also make the "privileges and immunities" clause of the state Constitution read much more like the federal clause. Retained, however, would be the California clause that "all laws of a general nature shall have a uniform operation"; no such clause exists in the federal Constitution, and on this language Justice Wright, or any of the justices sharing his view, could find a sufficient difference to require reaffirmation of *Serrano*.

Up to the court

At one point during the 1973-74 legislative session, a constitutional amendment was under consideration that might have required a reaffirmation of *Serrano*. That measure would have inserted the words "an education" into the list of inalienable rights of a California resident. But this proposal, which ultimately would have required voter approval, died in the Senate Education Committee in the session's closing days. Without that direct constitutional instruction on the place of education in California, the court will have to figure it out.

And it is unclear whether the second hearing of *Serrano* will come out more like the first hearing of *Serrano*, or follow the federal lead as it did in the second hearing of *Diamond*.

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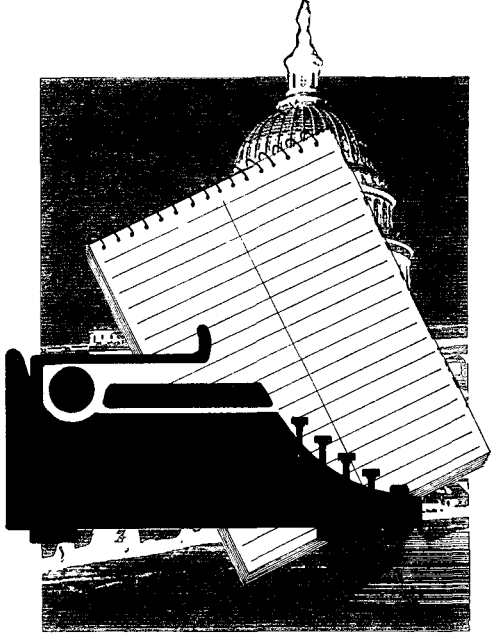
CALIFORNIANS IN EXILE



Who's who among the state's Washington correspondents

By GIL BAILEY

On some Wednesdays at 8 a.m. or there-abouts a group of reporters gathers in the Sheraton-Carlton Hotel in Washington, D.C., to eat one of the world's worst breakfasts and question Washington notables. Each reporter represents a California newspaper or radio or television station, and the membership of this group totals 17, although there are more California-oriented correspondents in the nation's capital.

After breakfast, the reporters spread out, for the interests of California news outlets vary greatly, with the state really being a number of different and separate states — the great valley, the north with its San Francisco Bay orientation, and that vast suburb called Los Angeles. So Leo Rennert of the McClatchy Newspapers in Fresno, Modesto and Sacramento will be interested in the congressional hearings on a proposed federal Bureau of Reclamation rate increase for municipal electric utilities, while the Los Angeles *Times* staff may be occupied with the Senate Foreign Relations Committee hearings, or some equally cosmic national or international happening. Reporters for the Ridder and the Copley newspaper groups divide their time between national and regional stories.

Decisions made in Washington are often vital to the state — a school-desegregation case, for example, the closing of a naval shipyard, the awarding of a defense or space contract, the letting of an off-shore oil lease. In addition, the House and Senate delegations, as well as that part of the "California mafia" of the former Nixon administration not under indictment, play vital roles in the national scheme of things. (Five California members of the House, for example, served on the House Judiciary Committee's impeachment inquiry.) Thus, the kind and quality of Washington reporting distributed through California news outlets is of considerable importance to the California reader, listener and viewer. Coverage ranges from zero, however, for many of the state's newspapers and radio and television stations to excellent for a few publications. Those papers and stations that depend entirely on Associated Press or United Press International for Washington news, obtain little California-oriented news, since the wire services quietly all but dropped their regional coverage several years ago.

Washington coverage does not come cheap, however. Salaries, fringes, office and communications expenses — telephone and teletype bills are enormous — run the cost of maintaining one correspondent to something around $30,000 to $40,000 a year. Not only is the Washington union scale well above $20,000 a year, but the cost of living in the nation's capital is one of the highest in the country. Still, California newspapers and other news media outlets are among the nation's richest, making the list of those not represented in Washington surprising. The Hearst papers, the Los Angeles *Herald Examiner* and the San Francisco *Examiner*, receive the Hearst Headline Service, but it does not cover regional or state stories. The San Francisco *Examiner* has been known to send its political reporter, Syd Kossen, to Washington occasionally, but his visits are relatively brief and few. The San Francisco *Chronicle* has hired a part-time reporter. The Riverside *Press Enterprise* is sending its well-regarded Sacramento correspondent, Martin Salditch, to open a bureau. But the Speidel group, including papers in Stockton and Salinas, and the Oakland *Tribune*, have no Washington representation. In fact, most of the state's newspapers and radio and television stations are not represented in the nation's capital.

The Washington reporters have serious rivals in the press aides to California's two senators and most of the state's 43 House members. For example, a former assistant city editor of the San Francisco *Chronicle*, William Thomas, served for a time as press aide to Representative Phillip Burton of San Francisco. His boss under attack for his politically liberal positions and early and vocal opposition to the Vietnam war, Thomas skillfully turned the attention of the San Francisco papers to Burton's efforts to create the Golden Gate National Recreation Area, and for three years plied them with stories on Burton's less controversial achievements in conservation and congressional service.

Burton's accomplishments in a number of areas were and are very real. On the other hand, a number of other congressmen from California routinely take credit for grants and loans in their districts for programs that the representatives voted against. Another example of the need for coverage came when Representative Del Clawson missed a vital tie vote in the House Rules Committee which delayed, if it did not kill, a mass-transit bill. The cost to Clawson's home county, Los Angeles, of failure to pass such a bill could be $320 million more over six years. Ridder newspapers noted Clawson's absence. Close coverage of California congressmen in their hometown newspapers is important, and the quality of Washington re-

The author, a member of Ridder Publications' Washington bureau, wrote "Why congressmen are quitting" in the May 1974 issue.

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porting can have a direct bearing on the quality of California representation.

Biggest bureaus

The three biggest Washington bureaus represent three of the largest newspaper organizations in the state: the Los Angeles *Times*, the Copley group with its major papers in San Diego and Sacramento plus smaller Southern California outlets, and the Ridder group with papers in San Jose, Long Beach and Pasadena. The largest bureau, 19 members, is that of the *Times* and its supplemental wire service produced with the Washington *Post*. But its size does not mean that it provides the most effective California-oriented coverage from Washington. Copley has seven reporters divided between its California and midwest papers and its mail service. Ridder has five reporters split between its California, Minnesota, Kansas, Colorado, Michigan, Indiana and Dakota papers.

The McClatchy *Bees* of Sacramento, Modesto and Fresno have a one-man band named Leo Rennert, who in the universal opinion of California reporters does the best single job of California coverage and is rewarded, they note somewhat enviously, with excellent play for his regional stories. Gannet, Thompson, Block, and Donrey newspaper groups all have reporters in Washington who occasionally will cover for their chains' California papers. KNX radio and KNXT television, KCBS, Cox Broadcasting (including KTVU in Oakland), Westinghouse (including KPIX, San Francisco), Golden West Broadcasting (including KSFO, San Francisco, and KMPC, Los Angeles) all maintain reporters or stringers in Washington.

Coverage is particularly difficult for radio and television. For such reporters as Susan B. Schiffer, who has left Westinghouse, there was the continuing problem of getting film to KPIX in San Francisco. At best, though, the 30- to 60-second spot for radio and television gives little opportunity for much exploration of issues. Moreover, the radio and television reporters face competition from congressionally operated radio and television studios, which make available to local broadcasters the unfiltered utterances of their various House or Senate members. Even so, a handful of correspondents, including Grant Holcomb of KNXT, do more than creditable jobs.

Changing *Times*

The brunt of California reporting from Washington, however, falls on the representatives of the Los Angeles *Times*, Copley News Service, Ridder Publications and McClatchy Newspapers. Adding the San Francisco *Chronicle*, with its part-time correspondent, these papers have a combined circulation exceeding 2.7 million subscribers. Of these Washington outposts, only the *Times*' bureau has a strong national reputation, which it has gained at the expense of state coverage. As with almost all news operations here, its coverage of California has been distorted recently by Watergate and the subsequent impeachment inquiry, in which it has acquitted itself well in the Watergate sweepstakes. In some respects, it is the *Times*' national accomplishments that limit it as a California news service. The *Times*' coverage is angled more toward its national wire service and the national stories that will appeal to its clients than toward the regional or state stories that might be of direct interest to Los Angeles readers.

John Lawrence, the bureau chief and former *Times* financial editor, readily concedes the national orientation of his bureau:

> We see ours as a national bureau rather than one with major responsibilities to cover regional news. Most often, our stories are on national issues, and we attempt to point out the California aspects of those issues or problems. We also tend to look hard at the national aspects of issues which particularly affect California and Los Angeles. We will often alert the L.A. staff to matters of regional importance uncovered in Washington. We strive for an in-depth, interpretive approach to coverage rather than just attempting to duplicate flow of daily spot news.

Seven of the 19 members of the *Times*' bureau have California backgrounds. These include News Editor Dennis Britton, who is thoroughly familiar with the state.

Copley: split function

Copley News Service's Washington bureau serves three functions. It provides regional coverage for Copley papers in California and Illinois; it prepares feature articles and interpretive stories for its mail-service clients; and it acts as a national bureau for CNS subscribers. Bureau chief James Cary specializes in foreign affairs; Ed Prina is a Defense Department specialist; Ed Neilan covers the State Department; and Ben Shore watches Congress. Marguerite Sullivan and Dan Foley cover for the California papers, and Lester Bell writes for Illinois. Shore, who formed the California correspondents' breakfast group, explained the operation:

Since our function is split between serving the Cop-

Californians' 'eyes' in the nation's capital

The following lists all publications and broadcasters indicating any interest at all in California-oriented Washington coverage. Entire bureau staffs are not included, only the reporter or reporters who spend any time (and sometimes it is very little) on California affairs. Those who do concentrate their efforts on behalf of their California readers or listeners and viewers are indicated by an asterisk. They are surprisingly few.

Associated Press (Janet Staihar).*
United Press International (Elmer Lammi).*
Mutual Broadcasting (Duff Thomas).
Storer Broadcasting (Tina Gullant).
Cox Broadcasting (Hal Cessna).*
San Francisco Chronicle (Joe Albright).*
Los Angeles Times (Paul Houston).*
McClatchy Newspapers (Leo Rennert).*
RKO General. (Cliff Evans).
Donrey Media Group (Terry Wade).
Monterey Peninsula Herald (Frank Kane).
KNXT (Los Angeles) (Grant Holcomb).*
Los Angeles Free Press (Margo Kline).
Metromedia (Walt Rogers).
Gannett Newspapers (Don Campbell).
Ridder Publications (Bill Broom, Gil Bailey).*
Thomson Newspapers (Ken Dalecki).
Hearst Newspapers (David Barnett, John Hall).
Copley Newspapers (Ben Shore, Marguerite Sullivan, Dan Foley).*
TelePrompter (Anne Blair).
Westinghouse TV (Val Hymes).
CBS Radio (Wes Vernon, Jim McCarthy).
KBIG/KBRT (Brian Moran).
Westinghouse Radio (Dick Brasie).
UPI Audio (Pye Chamberlayne).
University of California Newspapers (Mike Sugarman, Mark Hyman).

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ley papers on a deadline basis and serving Copley News Service on a non-deadline basis, we tend to function on two tracks. But it is fair to say that the main thrust of our production at the moment is for the daily news package that CNS mails out of San Diego. . . . However, when a particular paper wants a particular story . . . , it gets it from any one of the regional correspondents. And if they're all tied up, any one of the four national correspondents can be called upon to do it.

As for Watergate coverage, this bureau has done no original digging. However, we have done scores of background and interpretive stories . . . . We simply do not have the manpower necessary for full-time pursuit of fresh leads and original investigations.

Ridder: 60% regional

Ridder Newspapers are being merged with Knight Newspapers, but Ridder will continue to operate as a separate division of Knight-Ridder. There are no announced plans to merge the two groups' Washington bureaus at this point, but a joining of forces could strengthen overall Washington coverage. When completed, the Knight-Ridder merger will create what may be, in terms of circulation, the nation's largest newspaper group. The Knight papers are in the East and South, while Ridder's are concentrated in the Midwest and California. Both groups leave editorial control in the hands of local staffs.

The Ridder Bureau is headed by Walter T. Ridder, Washington editor, though his duties now largely deal with corporate matters. The functional chief is William Broom, who directs a staff of six which is organized along both geographical and "beat" lines. Explained Broom:

> On the average, we cover regionally 60 percent of the time, while putting about 40 percent of our time into national stories. Our reporters want a part of the national action. . . but we have a definite obligation to our papers to provide the local news of importance and coverage of House and Senate members, going far beyond their press releases.

Local and regional coverage and national stories are not necessarily mutually exclusive. The author, for example, followed the impeachment inquiry through the eyes of California's five members of the House Judiciary Committee. "We make a special effort to cast our stories both for the local interests and for all the cities we serve," Broom said.

One-man shows

McClatchy Newspapers' Leo Rennert operates alone, sending a steady stream of stories by telephone and Telex to the Sacramento *Bee*, which relays them to the Fresno and Modesto *Bees*. He covers essentially for the Sacramento-San Joaquin Valley, the *Bee*'s circulation area, and he covers it with impressive thoroughness, despite the fact that he no longer enjoys the help of a second reporter (who was let go several years ago when the McClatchys sought to cut editorial costs by halving the Washington bureau and closing offices in San Francisco and Los Angeles). Other correspondents envy Rennert's ability to command excellent play for his stories, which results from a strong commitment from management toward the detailed regional and even local coverage he provides. He does not duplicate wire-service coverage by staffing such national stories as Watergate unless there is a distinctly California angle, such as the perjury trial of former Lieutenant Governor Ed Reinecke.

John Lawrence

Leo Rennert

The San Francisco *Chronicle* hired Joseph Albright as a part-time reporter after Thomas left his post as press aide to Representative Burton. Albright formerly headed the Washington bureau of *Newsday*, a Long Island newspaper which his family owned until its sale several years ago to the Los Angeles *Times*. He estimated that he spends roughly half his time working for the *Chronicle*, and the rest in free-lancing. "The *Chronicle* uses almost everything I send them," said Albright. "I think my Washington experience since 1960 more than makes up for any lack of knowledge of the state. I believe understanding Washington is more important."

Points of frustration

The paths of most California correspondents criss-cross as news stories and geographic interests converge, and they also share certain points of frustration. First, they say, the California delegation is so large and the geographic interests of the state so varied that no one reporter can adequately touch all bases. Second, news editors are not always Washington oriented, and although they ask for regional or state stories from Washington, they are likely to play them well back in the paper. Page one is often obtainable only by writing the national story. While the local importance of a contemplated closure of a military base in Long Beach, San Diego or Sacramento, or of an appropriation for a water project in San Jose is readily grasped by local editors, they may not recognize the significance of a mass-transit bill working its way through Congress.

There's a personal side, too. Much as the correspondents like Washington as a news center, it is not without its trials. Many of them remember experiencing culture-shock on their arrival. Washington is not, after all, an informal town; it has a strict pecking order. The weather is at best beastly, and the cost of living is several notches above California's. The pressures on spouses and children are also severe, particularly when the reporter is absent for days on end. ("We wound up in marriage counseling," said one. "Perhaps it would have happened anyway, but Washington contributed.")

Daily battle

On the other hand, the job of Washington correspondent carries with it a feeling of being a part of history-in-the-making. But, ultimately, the coverage provided California readers reflects the outcome of a daily battle for news space. As a press aide to a California senator observed: "I haven't seen any political biases on the part of the reporters, no matter what the political orientation of their papers. However, their coverage very definitely reflects what their papers wish."

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Pete Wilson

Campaign '78: Watch the mayors

Tom Bradley

Back in 1958, U.S. Senator William F. Knowland of Oakland sized up his chances to win the Republican nomination for president and decided that the best launching pad was the governorship of California. His decision temporarily wrecked the Republican Party in California, and he was overwhelmingly defeated by Pat Brown in a Democratic romp. But could Knowland be blamed? He was a student of history, and he could see that United States senators had not fared well in attempts to run for president. Knowland, however, was far better at learning from the past than at looking into the future. Little did he know that, starting in 1960, the best presidential launching pad would become the very Senate where he sat.

Within California, an historical pattern has developed for aspirants to the state's highest post. The rule seems to be that to become governor one must first win one of the lesser statewide constitutional offices. Both major-party nominees this year — Controller Hugh Flournoy and Secretary of State Jerry Brown — took off from this base; Pat Brown and Earl Warren had been attorney general; Goodwin Knight had advanced from lieutenant governor after President Eisenhower named Warren United States chief justice. Ronald Reagan was an exception, winning the job without any prior election successes.

Mayoralty as a political base

Most candidates for lesser constitutional office have come from the Legislature, as did six of the ten this year (if you include former Assemblyman Jesse Unruh). Candidates for United States senator have come from a variety of sources — Congress (John Tunney, Richard Nixon, Clair Engle), state controller (Tom Kuchel, Alan Cranston), show business (George Murphy), and the Legislature (Knowland). In all three categories — governor, other constitutional offices and United States senator — one major element in California's political picture has been omitted: the mayors of the state's largest cities. The only mayor who made it to the governor's office in modern times has been Sunny Jim Rolph of San Francisco (inaugurated in 1931). Others have made it up the ladder, but they have invariably gone to the Legislature first (and it was there that they developed the necessary political base).

The mayors have not lost by default. Sam Yorty of Los Angeles was a perpetual candidate for major office, including president. Joseph Alioto of San Francisco tried to run for governor this year. Another San Francisco mayor, George Christopher, twice ran for statewide office and failed.

But it may be that the era of the mayor is about to dawn, just as 15 years ago America turned away from governors and toward senators as presidential candidates. Some of the biggest names in California politics may be running the state's largest cities by 1976 and 1978, and two or three of these mayors may seek nominations for governor and United States senator.

Look at the three most important cities (politically, at least) in California:

Los Angeles. Tom Bradley, who overcame tremendous obstacles to become mayor of the state's largest city, can be expected to run for either of the state's top offices when the opportunity next arises. He has no problem of name identification, and if he shows any measure of success in coping with his city's massive problems he could be hard to defeat. His biggest political liability may still be racial, but Wilson Riles proved four years ago that a black can win statewide office.

San Diego. Mayor Pete Wilson is being widely discussed as a potential Republican candidate to face Democratic U.S. Senator John Tunney in two years. Wilson has shown an ability to win Democratic votes in San Diego, and he has used the mayor's office shrewdly to further his political career. He gave up a seat in the Legislature — and a promising future there — to run for the low-paying mayor's job, partly with the notion that it would provide a better stepping stone to the future.

San Francisco. Mayor Alioto is prohibited from running for a third term at the end of next year, and there will be a boatload of major candidates in the first go-round in November. Assuming that no candidate wins a majority (and that's a reasonable assumption), the two top vote-getters will be in a run-off in December. Among those thought to be in the race are Democratic state Senator George Moscone, Republican state Senator Milton Marks and Supervisor Dianne Feinstein. Moscone has already run one abortive race for governor, and he's bound to go again if he succeeds Alioto. The ambitious Feinstein ran against Alioto in 1971, only two years after election to the Board of Supervisors. With the women's movement trying to flex its political muscle, she would become an almost automatic candidate for major statewide office if she could emerge from the pack with the mayor's job.

More than ego

Serving as mayor of a major city is no bargain. California municipalities have immense problems and limited resources. The public expects mayors to produce results, but under most city charters the chief executives have relatively little power. They must depend on their leadership and forensic abilities to maintain their political status. Legislators, on the other hand, get lost in the Sacramento shuffle. They have much better pay and are apt to have less trouble winning reelection. In terms of statewide races, mayors always get free rides; they do not have to risk their jobs in seeking higher office. (This is also true half the time with state senators, but never with assemblymen.)

Being mayor, however, provides a politician with a certain ego satisfaction that service as a member of a large legislative body can never match. The mayor is always on center stage; a legislator must compete for attention. But ego satisfaction does not explain why people like Wilson and Moscone are willing to leave Sacramento for San Diego and San Francisco. They must also perceive some signs of a promising political future emanating from city hall.

ED SALZMAN

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California is far from immune to the ravages of mining – the gouged lands and defiled streams that are more commonly associated with strip coal-mining in the remote mountains of Appalachia. What is the extent of mining's impact on the California landscape? Why hasn't the problem been more widely recognized? What controls exist to insure that depleted lands are rehabilitated?

Who pays to repair California's mining scars?

BY MICHAEL W. PRAIRIE

California's landscape is dotted with thousands of patches of derelict mining lands, scarred by quarries, littered with abandoned buildings, and piled high with mining refuse and tailings. It may be that because these unrehabilitated lands are well scattered about the vastness of the state the magnitude of the environmental problem has tended to be overlooked — and with it the need for reform. Though the California Legislature as early as 1967 expressed concern over the dangers posed by unrestricted and unregulated surface or open-pit mining, mine operators continue to extract minerals pretty much as they please. In the meantime, at least 30 states enacted or strengthened laws requiring operators to rehabilitate lands disturbed by their mining, and Congress may this year require miners to restore land stripped for coal to its "approximate original contour".

In California, spokesmen for the mineral producers concede that unreclaimed lands have often been abandoned. But they insist that mine operators today are voluntarily seeking solutions for the environmental problems resulting from mining. Mine operators, they argue, are already subject to numerous controls, including state air- and water-pollution regulations and even county ordinances governing noise, vibrations, dust, slopes, fencing, and reclamation. Additional controls, they contend, will impose an unfair burden on large producers and force the small ones out of business entirely. Conservationists, on the other hand, maintain that county government has neglected to insure that depleted mineral lands are reclaimed. They conclude that state or federal action is urgently needed to protect the public's interest in restoring the quality of the state's land.

Hearings scheduled

Since the California Senate requested a legislative study in 1967 on "uniform controls and standards for strip mining, at least nine different drafts of proposed mining reclamation legislation have been prepared by an industry-dominated committee responsible to the state Mining and Geology Board. None has been introduced in the Legislature. Against this background of legislative and executive-branch hesitation, Senator John A. Nejedly, chairman of the Senate Committee on Natural Resources and Wildlife, decided to call hearings for November 20th on a proposal that he hopes to refine and introduce in the new legislative session. Nejedly proposes to require mine operators to win the state geologist's approval for a plan to rehabilitate the depleted lands before starting work and to post a performance bond to insure that their rehabilitation work is satisfactorily carried out afterward.

The author was formerly a researcher with the California Senate Natural Resources Committee.

Mining in California

Mining is big business in California. The state's production of mineral commodities contributes three-quarters of a billion dollars to the economy. Nearly 60 percent of this value is generated from extraction of construction materials. Most of the rest comes from mining iron ore, tungsten, boron minerals, magnesium compounds and asbestos. Mineral production takes place in all 58 counties — and almost all of it at ground level or in an open pit.

Mining and processing these mineral commodities yields annually more than 250 million tons of crude ore and wastes. It also disrupts thousands of acres of land. A recent report of the U.S. Bureau of Mines ranks California fifth among the states in total land devoted to mining. It estimates that between 1930 and 1971, 227,000 acres were disturbed by surface mining and that only 19 percent of it (43,000 acres) received any rehabilitation. California devotes .23 percent of its land to mining, well above the national average of .16 percent. Thousands of acres more are strewn with tailings and waste from earlier placer gold-mining.

An attempt has been made to document conservationist claims that surface mining has caused environmental degradation. Some examples:

- In Irwindale (population 800), Los Angeles County, three square miles of open pits and quarries, some of them 250 feet deep, were excavated for more than 50 years with little consideration given to future uses of the land. Since these pits reach below the water table, they cannot be used for solid-waste disposal without endangering the city's water supply. Industry spokesmen and local officials agree that the only possible use for them is recreational, and even in that case the lake water there might be absorbed by the porous sides and bottom of the quarries. (An ordinance recently adopted by the City of Irwindale requires mine operators to grade slopes to specifications and to file a reclamation plan, but the ordinance is unclear as to whether mine operators must actually carry out reclamation.)

- Mineral producers assert that government regulations for reclamation are unnecessary in urban areas

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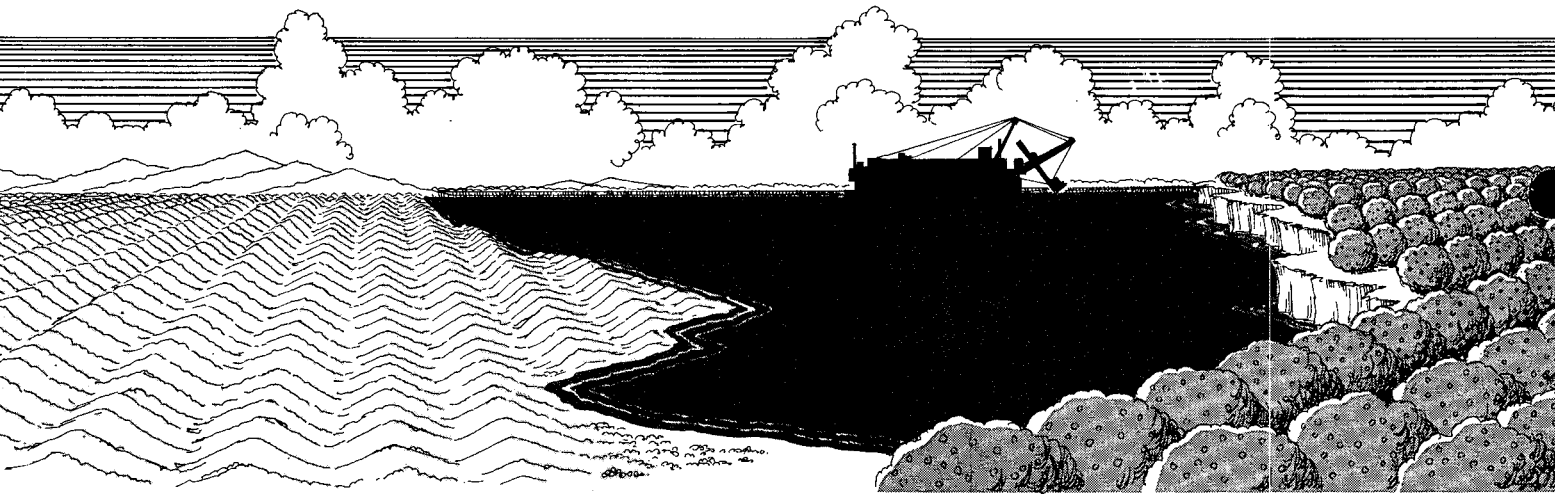

since sharply rising land values assure that sand-and-gravel excavations in such areas are rehabilitated. Adjacent to the City of Anaheim in Orange county, however, an abandoned mile-long sand-and-gravel pit lies a few feet from a large housing development. After a ten-year wait during which the value of the land attracted no suitable rehabilitation proposal, a local park district has decided to assume the job itself — at a cost exceeding a million dollars.

- Near the City of Sonora in Northern California, milling wastes and tailings from a recently abandoned asbestos mine have produced dangerous dust particles. While the mine dumps are not near populated areas, the local official responsible for the enforcement of air-pollution standards has not ruled out potential health hazards to surrounding communities.

- Toxic mineral wastes have also contributed to California's water pollution. Mine tailings and low-grade ore left untreated from an abandoned copper mine near Keswick in Shasta County leached poisonous copper residues into the Sacramento River. After construction of Shasta Dam cut the water flow, the increased concentrations of copper became lethal to migrating salmon. As a result, the federal government spent more than a million dollars trying to impede the flow of poisoned water, but the project has been only partially successful and additional water has had to be released from Shasta Dam to dilute the copper further.

- Increased gravel extraction threatens the continued existence of the Russian River, 60 miles north of San Francisco, as a scenic and recreational river. Some two million tons of gravel are now extracted annually. That is more than a hundred times the natural flow. The results have been to alter the channel of the river, cave in banks, wash away adjoining land, and muddy water downstream, harming both fishery and recreational resources. The Sonoma County Water Agency reports that gravel extraction also imperils the water supplies for 150,000 people in Sonoma and northern Marin counties. (The water is obtained from wells in the river bed itself, and the gravel beds act as natural filters.)

- The desert area covering parts of Riverside, San Bernardino, Inyo and Imperial counties contains California's principal metallic ore, boron minerals and talc mines. Kaiser Steel's Eagle Mountain Mine, located in the remote eastern part of Riverside County, produces some four million tons of iron ore yearly. One of the nation's largest open-pit mines, it has disturbed more than five thousand acres of the rugged desert terrain. County officials recently began to attach some minimum reclamation conditions under zoning ordinances, but these do not apply to older mines. These depleted mineral lands are not near population centers, the mineral producers point out, but conservationists counter that this very remoteness is what requires government supervision since such conditions provide little or no economic incentive to carry out voluntary reclamation.

Subsidy to spoil

These examples illustrate the fact that most mineral operations involve some environmental degradation, which results in external costs for taxpayers. If these costs were reflected in the cost of mining there would at least be some incentive to minimize them by adopting the least destructive method of mining. Because this is not now the case, mineral producers are in this sense being subsidized for despoiling the state.

Despite the magnitude of mining operations in California, the only present power to require reclamation is vested with cities and counties — not the state. The result has been uneven regulation, and a general failure to insure that mineral producers pay the cost of reclamation.

Mineral lands owned by the federal government in California fare only slightly better than those under county jurisdiction. Mining operations for hard-rock metallic ores, classified as "locatable minerals", are regulated by the U.S. Bureau of Land Management under the Mineral Location Law of 1872. This law authorizes the bureau to require only minimal environmental protection and literally no rehabilitation. Mining for sand, gravel, stone and other such materials, classified as "salable resources", is subject to the Mineral Disposal Law of 1947, under which the bureau has somewhat greater authority to attach reclamation conditions.

State responsibility

Mining is becoming recognized as a transitory use of land that itself is a precious resource. While some mining companies acknowledge that land ownership does not include the right of destruction, successful reclamation depends largely on effective planning, sophisticated mining and reclamation techniques, and rigorous governmental supervision. So far, county government in California has lacked the resources (and the desire) to regulate mining effectively. The question now is whether the state will insure that the costs of reclaiming mined lands will no longer be borne by the public.

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California *NEWSBRIEFS*

Harmer gives up 'free ride' to take Reinecke's place

Republican state Senator John Harmer was named by Governor Reagan October 3rd to succeed Lieutenant Governor Ed Reinecke, who resigned on being sentenced to a suspended 18-month prison term for committing perjury before a Senate investigating committee. In accepting the job, Harmer gave up a "free ride" in his attempt to win the lieutenant governorship against Democratic Senator Mervyn Dymally, since Harmer's Senate term would have run until 1976.

Reagan also called a special election for December 10th to fill Harmer's vacancy in the 21st senatorial district northwest of Los Angeles. The Governor and other GOP leaders endorsed unseated Republican Assemblyman Newton Russell for the job. There will be a runoff January 7th if no candidate wins a majority in December.

John Harmer

Democrats gain in registration since the primary

The Democratic Party gained 114,887 registered voters eligible to cast ballots November 5th. That raised the Democratic majority in the state to 56.5 percent of the electorate against the Republican Party's 36.4 percent. The GOP gained 13,976 voters, according to the secretary of state's office.

Those who registered but declined to state a party preference rose by 23,826 to a total of 576,295 — nearly 6 percent of the electorate.

Ground is broken for suburban governor's mansion

Governor Reagan, accompanied by his wife, Nancy, turned the first spadeful of soil on the former orchard in the Sacramento suburb of Carmichael, where a $1,290,000 mansion is to be built for Reagan's successor. A group called the Friends of Carmichael sought unsuccessfully to block construction of the 12,000-square-foot structure.

Democratic gubernatorial contender Edmund G. Brown Jr., a bachelor, vowed not to live in what he called the "Taj Majal". His Republican opponent, Houston I. Flournoy, said that he and his family would be happy to move in, however. (See "Design for a governor's mansion," *CJ*, April 1974.)

High court kills state tax credit for private schools

The United State Supreme Court struck down a 1972 California law granting a tax credit to parents who send their children to private schools. The measure sought to grant up to $125 a year to low- and middle-income parents of the 400,000 children who attend the state's non-public elementary and secondary schools. Americans United for Separation of Church and State and United Americans for Public Schools challenged the California law as contradictory to the constitutional separation of church and state. Its coverage, they argued, would include the 350,000 pupils in religious schools, 90 percent of them Catholic.

A federal district court in San Francisco issued an injunction last February halting the program on the church-state ground, and the U.S. Supreme Court's 6-3 ruling October 21st was to let the lower court's decision stand.

Los Angeles buses resume operation after 2½ months

The 1,896 buses of the Southern California Rapid Transit District — halted for nearly 2½ months in one of the state's longest transit strikes — resumed full operation October 21st. RTD claimed to transport 685,000 passengers daily before the strike by bus drivers. The new contract provides a pay-and-benefits package amounting to a 28 percent increase in compensation through mid-1976.

Berkeley freshmen flunk English test in record numbers

About 45 percent of UC Berkeley's entering freshmen failed to pass a writing test designed to identify students who need remedial training in English. A total of 1,165 students of an entering class of 2,718 flunked the test, a record; 42 percent failed last year. Nearly 80 percent of those failing came from white middle-class backgrounds. "These students have done well in some of our best high schools in the wealthiest suburbs," said Phyllis Brooks, director of the remedial writing program, "but they never learned to write more than a few lines." Brooks' 10-week course, Subject A, is designed to remedy that situation.

Stockton schools ordered to integrate its 30,000 pupils

The state's eighth largest school district, Stockton Unified, was ordered last month to design a desegregation plan to end what a judge called "intentional racial-ethnic segregation." Superior Court Judge John Keane ruled that "the board has for a long time recognized the need for integration but has taken no action to desegregate beyond making promises of studies and adopting a so-called open-enrollment plan." He said an integration deadline would be set later.

The district has 30,000 students, 47 percent of whom are identified as coming from a minority background. Judge Keane's order stemmed from a suit filed four years ago by California Rural Legal Assistance on behalf of the district's Mexican-American and black pupils.

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California *NEWSMAKERS*

In a surprise move, President **Charles J. Hitch** of the University of California announced his intention to retire at the end of the current school year, next June 30th. Hitch, 64, has served as head of the UC system for

Charles J. Hitch

7½ years, some of them the most turbulent in the history of the university. **William French Smith,** chairman of the UC Regents, announced that a Regents' committee would be appointed to search for a new president.

Two major law-enforcement officials of the Reagan administration also revealed last month that they were leaving their posts. **Walter Pudinski,** commissioner of the California Highway Patrol, returned to his former civil-service position and will become commander of a new CHP zone in San Bernardino, taking a pay cut from $37,000 to $31,000 a year in doing so. Governor Reagan appointed Pudinski's deputy, **Dan Lanza,** 53, to succeed him, effective November 1st. Pudinski apparently had become increasingly frustrated with paperwork and preferred being in the field. State Corrections Director **Raymond K. Procunier** said that he will step down from his $37,000-a-year job when a new administration takes over in January, and that he has not made plans for the future. Procunier, 51, who has 27 years experience in corrections, cannot collect retirement benefits for four years.

It was revealed that the attorney general's office has conducted a detailed investigation into the receipt of gifts by **Edward J. Kirby,** state Alcoholic Beverage Control director. Kirby, it was reported, accepted a gold watch and free airline and hotel accommodations in Hawaii from the brewing industry, which his department regulates. The attorney general's office concluded that the evidence would not warrant a criminal prosecution. Kirby, a former FBI agent, declared: "I can assure you there has not been any malfeasance or nonfeasance."

Former Republican Governor **Robert H. Finch** resigned from his Los Angeles law firm — McKenna, Fitting and Finch — after learning that it had contributed $600 to the gubernatorial campaign of Democrat **Edmund G. Brown Jr.** Finch was outraged because the donation was made in the firm's name without his knowledge. He was a strong supporter of GOP candidate **Houston I. Flournoy.** . . . Cash-short Republican legislative candidates in San Diego expressed anger over a planned $100-a-plate dinner for Republican state Senator **Jack Schrade,** whose term has two years to run. A Schrade aide revealed that the senator already has almost $60,000 in his campaign coffers.

Governor Reagan pardoned **John A. Brown,** convicted of murder in 1963, because he believes the man to be innocent. Brown, 33, had confessed to the killing of 14-year-old Peter Libay in Riverside County. An investigation indicates, the Governor said, that Brown confessed because he wanted to die in the gas chamber and be reincarnated . . . . **Richard D. Joy Jr.,** 33, of Santa Rosa, who is deaf and blind, was selected as state vocational rehabilitant of 1974. A full-time electronics-parts assembler, Joy was the first deaf and blind Eagle Scout. A licensed ham-radio operator, he can distinguish words and sounds from vibrations through his fingers.

When Los Angeles County supervisor **Frank G. Bonelli** died in 1972, there was about $160,000 in his political campaign fund. Under an agreement worked out between parties involved in negotiating distribution of the money, only $68,000 will be returned to the contributors on a prorated basis. Bonelli's will left the money to his family, but a group of contributors filed a class-action suit against the estate to recover the money. The settlement provides that Bonelli's widow and her attorney will get $45,000, attorneys for the contributors $34,000, and another firm of attorneys involved in the case $11,500.

Perjury charges were dropped against **Vincent T. Bugliosi,** Charles Manson's chief prosecutor and an unsuccessful candidate for the Democratic nomination for attorney general last June. Bugliosi and defense attorney **Dave Shinn** were indicted on charges of having lied three times under oath in denying that they gave information to reporter **William Farr** despite a gag order. Farr refused to testify in the Bugliosi case. . . . **Kenneth L. Smith** resigned as California director of Common Cause, a post he has held for three years. He will join the national staff of the public-interest lobbying organization in Washington, D.C. . . . **Joseph S. Silva** of Brentwood, who cast the decisive vote that allowed the Bay Area Rapid Transit District bond proposal to go on the ballot in 1962, died at 75. He served as a justice of the peace, mayor, Contra Costa County supervisor and BART director. It was as a supervisor that he broke a 2-2 tie and sent BART on its way. . . . The state Supreme Court accepted the resignation of **Richard M. Nixon** of San Clemente from the State Bar.

Reagan appointed **John P. Vukasin Jr.,** controversial member of the Public Utilities Commission, as an Alameda County Superior judge. Previously, the Governor had nominated Vukasin, 47, to the District Court of Appeal in San Francisco. The appointment, opposed by the State Bar, was subsequently withdrawn by Reagan. The governor named **Robert E. McDavid** of San Diego, a former member of the state Board of Equalization, to succeed Vukasin on the PUC. The nomination is subject to Senate confirmation. . . . Among other appointments: Superior Judge **James B. Scott** of Santa Clara as associate justice of the District Court of Appeal in San Francisco: El Centro attorney **Franklin D. McDaniel** as associate justice of the Court of Appeal in San Diego; Chaplain **Marjery N. Link** of the Los Angeles County juvenile halls to the California Women's Board of Terms and Parole; **Leonard M. Levy,** referee-in-charge of the Sacramento office of the Workmen's Compensation Appeals Board, as a member of the board.

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Significant court actions

Verbal Contraband?

The state penal code gives prisoners the right to correspond confidentially with attorneys, subject to inspection by prison authorities for "contraband". In 1972, the state Supreme Court ruled that this did not allow authorities to read a prisoner's privileged mail in search of "verbal contraband" — only physical contraband, such as drugs or weapons. In a unanimous decision, the court has extended its decision to prohibit prison officials from reading printed enclosures — including law-review articles, newspaper clippings and legal documents — transmitted between an inmate and an attorney.

The court said that printed enclosures are not the kind of tangible items that the Legislature envisioned as posing a serious threat to prison security. "The fact that personal interviews with attorneys are not subject to auditory monitoring emphasizes the futility of reading all enclosures in attorney mail in the hope of frustrating escape plans and avoiding violence," the justices added.

In *Jordan on Habeas Corpus,* the decision was handed down in an unusual manner. Justice Louis H. Burke wrote one opinion signed by three other justices. A concurring opinion was authored by Chief Justice Donald R. Wright and also signed by three justices. Justice Mathew Tobriner signed both opinions. The Wright position is that confidentiality applies to all out-of-state attorneys and to communication on both criminal and civil matters. The Burke opinion is more narrowly drawn.

Alcoholic breath

In a 6-1 opinion, the court ruled that police must preserve ampules from Breathalyzer drunk-driving tests and produce them at the request of a suspect at his trial. However, the court also ruled that its decision would apply only to chemical breath tests administered after October 21st, the date the opinion was filed.

Justice Raymond L. Sullivan, writing for the majority in *People* v. *Hitch,* said that the test ampules are material evidence as to the guilt or innocence of a defendant, and results must be excluded unless police can show that they follow a rigorous system for preserving such evidence and that destruction reflected neither negligence nor malice.

The decision will not benefit the man who brought the case, Warner H. Hitch, who had challenged the admissibility of the results of his test because the ampule had been destroyed. This is because the court found that the evidence had been destroyed in good faith and proper administration of justice requires that the decision be applied only prospectively. Justice Stanley Mosk disagreed, however, saying that the benefit of the decision should be shared by Hitch and that the trial court had correctly dismissed the case because the destroyed evidence was necessary for a fair trial.

Fair hearing

Dr. Leon Pinsker is a licensed dentist specializing in orthodontics in partnership with Dr. Max Schleimer. Since California does not issue special licenses for othodontists, any licensed dentist can practice the speciality. Orthodontic professional organizations, however, require certain postgraduate training for membership. Dr. Pinsker received this training; Dr. Schleimer did not.

When Pinsker applied for membership in his local orthodontic society, his application was rejected under a rule of ethics prohibiting an orthodontist from delegating work to a less-qualified person, presumably Dr. Schleimer. In *Pinsker* v. *Pacific Grove Society of Orthodontists,* the applicant claimed that he was not given an opportunity to present his side of the case, and challenged the authority of the organization.

The court found that the application was not properly denied and that Pinsker is entitled to a fair procedure because these private organizations have sufficient economic and professional power to clothe them with "public-interest" responsibilities. The association should devise a method, wrote Justice Tobriner in a unanimous decision, giving the applicant notice of charges against him and a fair opportunity to reply. But the court also indicated that delegation of work could be grounds for barring membership when the application is reconsidered.

Education, not religion

The court unanimously upheld the constitutionality of the 1972 California Educational Facilities Act, which provides private colleges with a means of obtaining low-interest financing for building projects. The suit, *California Educational Facilities Authority* v. *Priest,* was brought by the authority after state Treasurer Ivy Baker Priest refused to process bonds for the University of the Pacific because of possible constitutional problems raised by Legislative Counsel George Murphy.

Writing for the court, Justice Stanley Mosk said the purpose of the act was to produce low-interest construction through issuance of tax-exempt bonds, and that this had been challenged as a violation of the constitutional prohibition against enactment of laws respecting "establishment of religion" (since some of the beneficiaries would be sectarian schools). Mosk found that the act met the three tests used for the "establishment" clause: The purpose of the act is clearly secular — to provide expanded educational opportunity; the act would not have a primary effect of advancing religion; and general state supervision of building projects would not constitute "excessive government entanglement with religion."

Justice courts

The court refused to grant a rehearing of its decision prohibiting justices who are not attorneys from hearing criminal matters involving offenses punishable by jail sentences — a ruling that is expected eventually to eliminate non-attorney justice court judges in the state. But the court did extend the effective date of its decision from September 16th to February 1st.

As a result of *Gordon* v. *Justice Court,* the Legislature enacted a bill providing for 22 full-time attorney justice-court judges. Thirty of the present 82 attorney justice-court judges would convert to full-time work.

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Selected government reports

Backroom Politics, by Nancy and Bill Boyarsky, a book describing a series of atrocities involving use of state and local government by politicians to subvert the will of the people. Most of the stories have been told before, and there is a concentration on California because the authors live in Los Angeles (he a political reporter with the Los Angeles *Times* and she a free-lance writer). In the era of Watergate and political reform, the book provides more ammunition for those who claim that almost all politicians are crooked. The Boyarskys conclude with a section on how citizen activists can force the governmental machinery to work in favor of the general public rather than special interests. Published by J.P. Tarcher, Inc., Los Angeles, and distributed by Hawthorne Books, Inc., New York. 330 pp. $8.95, at bookstores.

Nancy & Bill Boyarsky

CONSUMERISM

Deceptive Packaging; published by San Francisco Consumer Action, 312 Sutter St., San Francisco 94108. 1974. An analysis of legislatively mandated duties and actual performance of the California Department of Consumer Affairs that finds the department closer to business interests than the consumers. 154 p. Available from SFCA. ($2.75, paper).

ELECTION CAMPAIGNS

Public Financing of Political Campaigns: Reform, or Rip-Off? published by the Institute of Government and Public Affairs, UCLA. 1974. Symposium on election reform and public financing of political campaigns. 139 p. Available from the institute, item 189.

ENERGY AND ENVIRONMENT

Energy Research at the University of California; published by the university. A survey of energy-related, scholarly research within the nine campuses of the university and the Atomic Energy Commission-supported laboratories. Lists the researchers and brief descriptions of their categories of research. April 1974. 66 p. Available free from the Director of Public Service Programs, 650 University Hall, U.C., Berkeley 94720.

Environmental Impact Review: An Introduction to the Federal and California Processes; by Ruthann Corwin, edited by Patrick Heffernan, published by *Resources,* 94 Crest Road, Novato, Ca. 94947. Sept. 1974. An introductory guide to the preparation and use of environmental impact reports in California. 99 p.

The California Environmental Quality Act: An Innovation in State and Local Decision-making; by Thaddeus C. Trzyna and Arthur W. Jokela, published by the Center for California Public Affairs, The Claremont Colleges. July 1974. Detailed analysis of California's environmental impact reporting program. 135 p. Available from the center, 226 W. Foothill Blvd., Claremont 91711. ($8.50)

LOCAL GOVERNMENT

Public Benefits from Public Choice; by the Governor's Task Force on Local Government Reform. Analysis seeks to "increase local control of government costs and services, and enhance the ability of the public to determine the scope and impact of government plans and programs" of California's local government system. Emphasis on decentralizing government. July 1974. 76 p. Office of Planning and Research, 1400 Tenth St., Sacramento 95814.

MISCELLANEOUS

1973 Statistical Abstract of the United States; 94th edition. Facts and figures on social, economic, and governmental characteristics of the U.S. Includes pocket-size summary. 1,040 p. Item 143-H, Public Documents Distribution Center, Pueblo, Colo. 81009 ($9.60, clothbound).

Publicly Subsidized Child Care Services in California; by the Legislative Analyst. A *management and fiscal audit of programs* and services relating to child care, at state and local levels. August 1974. 440 p. and appendices. Item 74-8 from the analyst, 925 L St., Suite 650, Sacramento 95814.

The Police Officer's Exercise of Discretion in the Decision to Arrest: Relationship to Organizational Goals and Societal Values; by James G. Fisk, published by the Institute of Government and Public Affairs, UCLA 1974. An examination by representatives of the criminal justice system and scholars of the complexity of the issue of police discretion. 103 p. Available from the institute, item 188.

A Guide to Federal Laws Prohibiting Sex Discrimination; issued by the U.S. Commission on Civil Rights. 1974. Includes complaint procedures. 118 p. Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. ($1.40) Item 72-J.

California Occupational Safety and Health Plan, Department of Health; report to the Legislature by the Auditor General pertaining to staffing and laboratory services provided the Occupational Health Section, and allocation of overhead costs, with comments by department officials. October 1974. 13 p. Available from the auditor, 925 L St., Room 750, Sacramento 95814 (No. 245).

Review of Operations of the Department of Corporations; by the Auditor General, an analysis of the department's functions that recommends transfer of some responsibilities and abolishment of the department. 24 p. Available from the auditor (No. 194.1).

School District Purchasing Procedures of Instructional Materials; report by the Auditor General, *covering 273 school districts,* with recommendations for reducing the costs of materials through amendments to the Education Code. 8 p. Available from the auditor (No. 234).

CATV in California; preliminary report of the Legislature's Joint Committee on Telecommunications on implications of cable technology, its delivery system and the issues surrounding it, and the role of state government. 60 p. Available from the committee, 1116 9th St., Room 58, Sacramento 95814.

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A WASHINGTON PERSPECTIVE...

By THOMAS M. REES

The ten-dollar trick

Recently passed Proposition 9 contained one of the most far-reaching restrictions ever conceived — a limitation of $10 per month on the amount a lobbyist can spend on any member of the Legislature. How is anyone going to communicate in Sacramento? Ten dollars will barely get you a bourbon, a steak, and a beer.

Despite the suspicions of such groups as Common Cause, picking up the bill for a drink and a meal for a legislator really does not place the legislator under the thumb of some "ruthless" lobbyist. For laws to be written there has to be communication among all parties — lawmaker, constituents, colleagues, and people or interests affected by a change in law. Effective laws cannot be legislated in a vacuum, and sometimes it is easier to communicate at Posey's and Frank Fat's than in committee rooms or on the floor of the Legislature.

The overwhelming feeling I experienced on coming to Congress after my years in the state Assembly and state Senate was isolation. In Washington, we legislate in a vacuum much of the time; Capitol Hill is so terribly removed from the rest of the city and the rest of the country.

I served on the House Banking and Currency Committee for five years before meeting a lobbyist from the American Bankers Association. How can we draft or vote on complicated bills dealing with banks if we never talk with bankers or their representatives? I might not agree with them, but at least I can inquire about how a bank runs

Congressmen can serve on only two committees — a major one and a minor one. If we rarely see a lobbyist who is supposed to be covering the committees we serve on, we *never* see a lobbyist who covers a committee we are *not* on.

Last fall, for the first time since I came to Congress in 1966, an oil lobbyist visited my office. He was concerned about how I might vote on an environmental-impact-study waiver on the Alaska Pipeline bill. I could have hugged him -- with the energy crisis there were many bills before Congress affecting the petroleum industry, and I didn t know any oil lobbyists to talk to about their views. My lobbyist friend was from Los Angeles; I had known him from Sacramento days, and he lived in my congressional district. That's why he dropped by my office. (Incidentally, I didn't vote his way.)

Even though I'm doing a great deal of work in petroleum-pricing, I still have to hunt down oil lobbyists for information I need for the process of legislating.

In Sacramento, on the other hand, there were lots of oil lobbyists. We knew who they were, and when they had a problem they knew they could talk to us. Actually, they spent most of their time fighting each other: the majors against the independents, the importers against the domestic producers, and the producers against the vertically integrated companies. When they had a battle, we all learned about the oil business — good and bad.

When I was in the California Legislature, lunch was the most important communication time, and my week shaped up like this:

- *Monday* I had lunch with the Los Angeles County lobbyist; this was important, since I represented the whole county in the Senate.
- *Tuesday* was Derby Club at Posey's. The "third house" picked up the tab, and the members, all of whom wore derbies (the only prerequisite) included legislators, lobbyists, and some state officials. At times I got more bills through at Derby Club than in a dozen committee rooms. The Regional Planning Act was a Derby Club special. In a ten-minute period crunched against the bar in Posey's back room, I was able to get together the lobbyists from the League of Cities and the County Supervisors Association, the governor's legislative secretary, and the chairman of the Senate Governmental Efficiency Committee, and get them to agree on a compromise. Until then, the bill had been stuck in committee for two and a half years.
- *Wednesday* was Clam and Choral at the El Mirador. This gathering, sponsored by the Public Health League, which is the lobbying organization for the California Medical Association, was for senators only. (While I didn't give the CMA many votes, I loved clams.) It was a good, quiet time to line up some of my bills for Senate committee hearings and also to lobby for the pack of Los Angeles County bills I had discovered at Monday's lunch.
- *Thursday* was the biggest lunch of all — Moose Milk. This was an open-bar buffet for all 120 members of the Legislature. I did most of my Assembly lobbying here, setting up the next week for any of my bills before Assembly committees, and checking with Los Angeles County assemblymen on any bills they had coming to the Senate.

It was communication. It was effective. And I wonder how the great noon tradition of Derby Club, Clam and Choral, and Moose Milk will survive under Proposition 9. Will people carry punch cards around and start paying cash when they reach the $10 limit?

Of course, when I served in Sacramento, the salary was $6,000 a year. On today's salary, legislators might buy their own lunches, just as we do in Congress, and still communicate.

But the important thing will be to keep the legislative branch in Sacramento from becoming isolated from itself and from the world, as is the case in Washington.

The author, who has served in both chambers of the California Legislature, now represents the 26th Congressional District (Los Angeles County).

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Attention, recent subscribers . . .

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October 1973 — What Los Angeles can learn from BART; why the state hasn't cleared the air.

(Note: The November 1973 and February 1974 issues are out of print.)

Interests, not people, are represented in California . . . . The California Legislature, indeed, closely resembles the "chamber of corporations" under Italian fascism.

Carey McWilliams (1949)

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